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**From:** Debbie Hertz <planetlaguna@msn.com>  
**Sent:** Thursday, October 01, 2015 10:13 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

As a longstanding California resident, I am opposed to the Delta Tunnels plan. The Delta Tunnels plan fails to conform to CEQA in that there are less impacting alternatives. There are numerous untapped resources for water still within the urban water system. First off sewage treatment plants could be upgraded to tertiary treatment facilities which would produce massive amounts of non potable water. California could eliminate the filling of pools. It could require commercial tourist industries and other commercial entities restrict their water use as well.

To take water from the delta where it would further threaten fish populations is unconscionable. It will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary. The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values.

The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

The plan does not seriously consider any alternatives other than new, upstream conveyance. We need to look to ourselves with how to cut water usage, now where else we can deplete supplies from. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Debbie Hertz  
31901 9th Avenue  
Laguna Beach, CA 92651  
US

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**From:** susan rudnicki <susanrudnicki@gmail.com>  
**Sent:** Thursday, October 01, 2015 9:51 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary. I am very disappointed in this "boondoggle" extraction-at-any-price attitude from the bureaucracies in my service. Californians MUST learn to live with less, which means a lot more tightening of the belt through eliminating capricious turf grass, water thirsty crops and other means of conservation.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

susan rudnicki  
804 5th St  
California, CA 90266  
US

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**From:** Ruth Thomley <ruthscat2@gmail.com>  
**Sent:** Thursday, October 01, 2015 11:46 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely, Ruth Thomley

P. S. What a joke! Taking water from drought stricken California, and using it for almonds and pistachios !!!  
UNBELIEVABLE!!!!!!

Ruth Thomley  
564 Chestnut St  
San Carlos, CA 94070  
US

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**From:** Mary A Leon <leon3@twc.com>  
**Sent:** Thursday, October 01, 2015 12:37 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

I also believe that this is against the people of California and against the fish populations that live in fresh water. If this is such a great bargain, why isn't the private company paying for their own tunnels? Why are the people of California being forced to have their tax money used?

Sincerely,

Mary A Leon  
5 Loop Street  
San Antonio, TX 78212  
US

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**From:** Danna Dal Porto <ddalporto@smwireless.net>  
**Sent:** Thursday, October 01, 2015 1:03 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

The idea that California can solve the water problem by taking water away from natural systems is not acceptable. The diversion of the delta and rivers will leave California in worse straits than currently exists. The fresh water exit will, most likely, cause the infusion of ocean/salt water into the delta, making agriculture impossible. This California WaterFix is a sham and not scientifically or morally prudent. I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Danna Dal Porto  
16651 Road 3 NW  
Quincy, WA 98848  
US

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**From:** Marjorie Kemp <lbooks1121@sbcglobal.net>  
**Sent:** Thursday, October 01, 2015 1:25 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

Save the water where it is - don't just transfer it to another area for human use !

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Marjorie Kemp  
2021 Cooper Way  
Round Rock, TX 78681  
US

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**From:** Marie Leven <marieleven@att.net>  
**Sent:** Thursday, October 01, 2015 2:14 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

When are you going to start conserving water instead of acting like you have an endless supply? Stop growing water hungry crops like almonds. Restrict water for lawns and golf courses and give the fish water to swim in!  
Sincerely,

Marie Leven  
321 Bellewood Drive  
Flushing, MI 48433  
US

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**From:** Judy McKinley Brewer <jbrewer@bio.umass.edu>  
**Sent:** Thursday, October 01, 2015 11:29 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I grew up in California, benefitting from the great water transfers from Northern to Southern California. Even then, we knew "water shuttling" was putting Delta and River wildlife at risk.

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Judy McKinley Brewer  
388 Wilbraham Rd  
MA, MA 01036  
US

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**From:** Amelia Hard <ameliah@europa.com>  
**Sent:** Thursday, October 01, 2015 11:51 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

As an Oregonian, I care deeply about the well-being of salmon, which play such a large role in our economy and culture. The water that allows them to reach their spawning grounds should not be diverted into the production of crops like almonds and pistachios that because of climate change are no longer sustainable.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Amelia Hard  
1214 SE Sellwood Blvd.  
Portland, OR 97202  
US

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**From:** Gary Kuehn <frump55@earthlink.net>  
**Sent:** Thursday, October 01, 2015 12:04 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

We can live without almonds and pistachios, water is another matter. The "Fix" is driven by greed, and is unsustainable and irresponsible.

Sincerely,

Gary Kuehn  
21228 Simay Lane  
CA, CA 91321  
US

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**From:** Eve Navarro <Eve.political.mail@gmail.com>  
**Sent:** Thursday, October 01, 2015 12:01 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

This doesn't make sense. We can work in other ways to deal with the drought, and save our ecosystems and the countless species that live there.

Sincerely,

Eve Navarro  
Geyserville Avenue  
Geyserville, CA 95441  
US

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**From:** Constance Spenger <cspenger@suddenlink.net>  
**Sent:** Thursday, October 01, 2015 11:57 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I categorically oppose the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

America needs its fish populations restored. At one time, these fish could feed millions of people without endangering the environment. The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Constance Spenger  
120 Olivia Lane  
Big Pine, CA 93513  
US

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**From:** charlie speno <chaspeno@gmail.com>  
**Sent:** Thursday, October 01, 2015 12:15 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

IT APPEARS CLEAR THAT THIS IS NOT GOING TO 'HELP' WITH THE REAL WATER PROBLEMS FACED IN CA - PERHAPS ITS A DESPERATE MOVE GIVEN THE CRISIS, YET, SHOULD BE RETHOUGHT, AND CERTAINLY ASSESSED AS TO WHO WILL BENEFIT AT COST TO THE TAXPAYERS, AND EFFECTIVE INVESTMENT IN REAL SOLUTIONS

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

charlie speno  
112 rio vista cir  
durango, CO 81301  
US

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**From:** Liz Amsden <LizAmsden@hotmail.com>  
**Sent:** Thursday, October 01, 2015 12:28 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my EXTREME opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

It seems to be primarily to serve the interests of corporate funders of California Governors such as Big Ag billionaire and water profiteer Stuart Resnick who has also been instrumental in campaigns to eviscerate Endangered Species Act protections for Central Valley Chinook salmon and Delta smelt, and striped bass in California.

The WaterFix actually FAILS to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values.

The WaterFix is simply a plan to export more water out of the Bay-Delta estuary to the benefit of people like Stuart Resnick and his buddies the Waltons of WalMart.

The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

LESS expensive and more environmentally Friendly alternatives to the Delta Tunnels were IGNORED -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports.

I call on you to stand up for the people and eco-systems of California and REJECT this harmful project.

Sincerely,

Liz Amsden  
5158 Almaden Drive  
Los Angeles, CA 90042  
US

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**From:** Wendy Raymond <hampster@vzw.blackberry.net>  
**Sent:** Thursday, October 01, 2015 12:28 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

This plan is not a water-fix. I didn't like it when I first read of it, and I do not like it any better today. Too much water being diverted to the entitled, no nearly enough allocated to wildlife and lands.

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Wendy Raymond  
7 Hidden Valley Rd  
Monrovia., CA 91016  
US

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**From:** John Menninger <john@profscience.com>  
**Sent:** Thursday, October 01, 2015 12:24 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

If Central Valley agricultural interests want that much water, let them pay for it at residential rates.

Sincerely,

John Menninger  
130 Ferson Ave.  
Iowa City, IA 52246  
US

---

**From:** Roger Thoma <bartonii@att.net>  
**Sent:** Thursday, October 01, 2015 11:28 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

Are you guys stupid? This is bad for just about everything you can think of and it will not fix the water problem in California. Get your head out of the sand or clouds or whatever. Your view is way too short sighted!

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Roger Thoma  
3015 Creekside Dr.  
Westlake, OH 44145  
US

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**From:** Judeth Van Hamm <one@hullportside.net>  
**Sent:** Thursday, October 01, 2015 7:13 PM  
**To:** BDCPcomments  
**Subject:** Find an alternative to the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to ask you to find a sustainable solution to water supply instead of the proposed Delta Tunnels. The Delta Tunnels will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will threaten endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

Please use one or more of the less expensive and less environmentally destructive alternatives to the Delta Tunnels that could save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability.

The Delta Tunnels fail to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The Delta Tunnels will simply export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Sincerely,

Judeth Van Hamm  
1 Hullportside St  
Hull, MA 02045  
US

---

**From:** Dorothy Varellas <djvarellas@comcast.net>  
**Sent:** Thursday, October 01, 2015 7:37 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

THIS "PLAN" IS NOTHING MORE THAN ANOTHER WATER GIVE AWAY TO BIG AGRI - WELFARE FOR THE RICH! At this time of dire drought in California, when hundreds of wells are going dry, thousands of forest trees are dying and we are all threatened with wildfires and water shortages, for the State to say that this is "WATER FIX" is ludicrous! We, in northern California know all too well that Big Agri demands more and more water at the expense of the residents and family farmers as well as the natural world of this state! We will not let the state get away with declaring this plan as a water fix. It is another sleazy grab at stealing even more of our precious water for corps that are not important except to the pocket books of big agri. We will not let you steal our water. We will not cooperate in taking our water for crops to be exported while we watch our gardens die, wear dirty clothes and are afraid to flush our toilets!

Sincerely,

Dorothy Varellas  
35 Carr St  
San Francisco, CA 94124  
US

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**From:** Debra Kirk <spinsterdragon@gmail.com>  
**Sent:** Thursday, October 01, 2015 9:14 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

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While I do not live in California, I hope to visit. But the reasons to come spend my tourist dollars in California are rapidly --and literally--drying up.

For all these reasons, I urge you to reject this harmful project.

Sincerely,

Debra Kirk  
5310 Lost Forest Dr #157  
TX, TX 77092  
US

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**From:** nando a. <nandoof3@earthlink.net>  
**Sent:** Friday, October 02, 2015 3:15 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

the ignorance of men is the enemy of mama nature why is it that the most educated people commit the worst crimes against nature and humanity?  
men has turn earth into a painful place for all living beings...when you do wrong nothing goes unpunished Stop the war against the environment by men I blame you for being cruel

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

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Sincerely,

nando a.  
16625 kent des moines rd  
des moines, WA 98198  
US

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**From:** Dehra Iverson <dehra@sbcglobal.net>  
**Sent:** Thursday, October 01, 2015 12:11 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, will not create more reliable supplies and will not improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. Alternatives such as water recycling, storm-water retention, restoration of aquifers and water-use reduction should all be done first. Drastically reducing the pollution of our aquifers and rivers due to fracking waste water, mining waste water, and agricultural run-off would also help ensure an adequate water supply. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Dehra Iverson  
2237 Raleigh Ave  
Costa Mesa, CA 92627  
US

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**From:** hilary malyon <hmalyon@mindspring.com>  
**Sent:** Thursday, October 01, 2015 1:05 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

MAKE PEOPLE WASTE LESS - THEN YOU HAVE ENOUGH FOR TWICE AS MANY

FACILITATE MORE COLLECTION AND USE OF GREY WATER

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

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Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

hilary malyon  
seminol ave  
07436, NJ 07436  
US

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**From:** Ellenda Wulfestieg <elwulf@hotmail.com>  
**Sent:** Thursday, October 01, 2015 12:40 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my really strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. With climate change the sea levels are rising, so why not take advantage of the abundant seawater along the California coast build several recycling seawater plants and infuse the water back into the depleted aquifers? The decision-making process has tilted in favor of increasing delta water exports.

I urge you to reject this horribly harmful project.

Sincerely,

Ellenda Wulfestieg  
2332 N Winnifred St  
Tacoma, WA 98406  
US

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**From:** G.W. Cheney <gwcheney@ymail.com>  
**Sent:** Thursday, October 01, 2015 6:16 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

How in Gods name does anyone believe that taking basically desert land and stealing water from someplace far away equals prime agricultural farmland? Cities in the desert crying for water to water grass and create artificial lakes for bass fishing....anyone see the idiocy in both of these scenarios? Maybe this world really needs that genetically altered killer virus to make things right. People and harm and destruction seem to go hand in hand. Is there a place to donate to the killer Ebola fund,? Let me know. I'm in.

Sincerely,

G.W. Cheney  
315 Hickory Lane  
Boone, NC 28607  
US

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**From:** Michael Levy <levysantacruz@gmail.com>  
**Sent:** Thursday, October 01, 2015 1:11 PM  
**To:** BDCPcomments  
**Subject:** No Delta Tunnels

Dear BDCP Officials,

I am writing to express my opposition to the Delta Tunnels plan. The plan endangers fish habitat but does not supply more water to those who will need it for human needs.

The Delta does not have more water to give. Instead, we should be focusing, in these extraordinary times, on conservation and triaging our water supplies. Clearly, this means we should not be supporting the growing of water-intensive crops in the Central Valley. The future in California is arid and we need to adjust.

Sincerely,  
Michael Levy

Michael Levy  
2120 N Pacific Ave Spc 45  
Santa Cruz, CA 95060  
US

**From:** Enos, Cassandra@DWR <Cassandra.Enos@water.ca.gov>  
**Sent:** Monday, October 05, 2015 3:45 PM  
**To:** BDCPcomments  
**Subject:** FW: The right idea for achieving the coequal goals - to replace WaterFix  
**Attachments:** Bay-Delta flow chart 5Oct15 denton.pdf

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**From:** Richard Denton [<mailto:rdenton06@comcast.net>]  
**Sent:** Monday, October 05, 2015 1:07 PM  
**To:** Cowin, Mark@DWR  
**Subject:** The right idea for achieving the coequal goals - to replace WaterFix

Mark,

You testified at the Senate Budget Hearing on May 21, 2015 that DWR did stop and review whether the BDCP and Cal. WaterFix proposed project was the right one (Senate Budget Hearing, May 21, 2015). Apparently, you decided that it was. It is unfortunate that you did not invite Delta stakeholders and environmental agencies to participate in that review, or seriously consider the detailed comments you received on the BDCP Administrative Draft and Draft EIR/EIS. You also said that “*when the right idea comes along that sets us back and really reconsider what we’re proposing comes along, we will do so.*”

The current California WaterFix proposal will not contribute to achieving the coequal goals or solving the serious and urgent problems of the Delta ecosystem and California’s water supply reliability. Worse still WaterFix will actually hinder achievement of these coequal goals and the inherent State objectives of improving water quality in the Delta, protecting the Delta as an evolving place, etc.

This unfortunate situation arose because the State and Federal government were not able to fund a project to address these issues and instead accepted the offer from the export water contractors to pay. The concept of beneficiary pays has unfortunately been turned into “*he who pays is the only one that benefits.*” Sadly, even those benefits, apart from a possible improvement in export water quality, are minimal.

Worse still, the export contractors control spending on the environmental review process, and the existing budget is pretty much spent, so the RDEIR/SDEIS was released with no new modeling and only brief sensitivity analyses, even though major flaws in CALSIM and DSM2 have been corrected since the BDCP modeling (Appendix B, page B-1). DWR’s modeling data Disclaimer states these analyses are incomplete, not balanced, etc. As a result, the RDEIR/SDEIS is embarrassingly inadequate for use by decision makers such as the SWRCB, U.S. Army Corps or even the lead agencies. The Delta ISB in its draft comments on the RDEIR/SDEIS agreed that presentation of the impact analyses is not adequate and hides actual impacts from decision makers.

The Natural Resources Agency public outreach also continues to mislead the public and regulatory agencies.

1. The BDCP and WaterFix are being described as a **Big Gulp, Little Sip** project. This is an attempt to say that the project is consistent with the original BDCP planning principle: *Divert more water in the wetter periods and less in the drier periods.* However, the modeling data and subsequent sensitivity analyses actually indicate exports will increase in dry months when outflows are very low and the Delta is most stressed. Without any additional storage, WaterFix also fails to regularly capture more water during wet months. The truth is the project would not take little sips in dry periods and is unable to regularly take big gulps when it is wet.

2. The project is said to provide ecosystem benefits by **minimizing reverse flows** in the south Delta. However the modeling shows that OMR flows remain more negative than -2,000 cfs, 55% of the time. Even in the more critical months, November-June, OMR remains more negative than -2,000 cfs, 44% of the time. The most negative OMR with WaterFix is -13,800 cfs. In some months, OMR actually gets worse. The preferred alternative does not minimize reverse flows.
3. The sensitivity analyses used to support the RDEIR/SDEIS and Clean Water Act application to the Army Corps contain persistent **exceedences of the Army Corps limits** on inflow to Clifton Court Forebay, as well as numerous exceedences of the Rio Vista standards. There is no mention of eliminating the Clifton Court inflow limits in the RDEIR/SDEIS or the Army Corps application. If the benefit of the project is to reduce south Delta pumping, why does DWR want to eliminate the Army Corps limits.
4. The benefits of the new north Delta intakes are also greatly exaggerated because the unscreened south Delta intakes would still be used for 50% of the exports from the Delta to southern California. Even more bizarre, a recently posted WaterFix animation proudly states that most of the exports during dry years will be from the south Delta, i.e., when the Delta is most stressed.
5. Adding new intakes in the north Delta does not represent a net environmental benefit for fish. The November 2013 Draft BDCP Executive Summary admitted that the north Delta intakes would harm many of the key fish species. This was to be offset by habitat restoration but the habitat restoration has now been reduced from 150,000 acres to little more than 2,000 acres. Reverse flows in Sutter and Steamboat Slough were also identified as a serious impact of the north Delta intakes (BDCP DEIR/EIS, App. 3F). These were to be minimized by habitat restoration in the Cache Slough region, but that is no longer part of the project.
6. All parties agree that reverse flows in the south Delta harm migrating fish species by drawing them out of the Sacramento River down to the south Delta pumps. It makes no sense to propose moving the export intakes to the Sacramento River in the north Delta (bring the pumps to the fish), and directly impact these anadromous fish species. If south Delta and north Delta intakes both seriously harm fish, why hasn't DWR seriously considered locating the new intakes elsewhere, e.g., in the western Delta, or added new storage to allow exports to be significantly reduced when Delta outflows are low?
7. The WaterFix proponents are assuming they can export more than 90% of Delta inflow by redefining the SWRCB's export/inflow limits. SWRCB Water Right Decision 1641 limits total exports to 65% of Delta inflow, sometimes only 35% of inflow. How is that good for the Delta ecosystem? Why aren't there detailed graphs showing these monthly ratios in the environmental documentation?
8. DWR and Reclamation have studied and disclosed the environmental impacts of 19 alternatives (including new SWRCB alternative 4H3), but only one, BDCP Alternative 9, is different than the other 18. The others all involve new north Delta intakes and isolated conveyance of water to Clifton Court Forebay. This is not a reasonable range of alternatives under CEQA, and is unacceptable for addressing the serious water problems in California.
9. The 2009 Reclamation Reform Act requires that the SWRCB develop new Delta flow criteria before BDCP can be approved. Strong legal arguments in support of this statutory requirement are laid out in the September 29 letter from NRDC et al. to Tom Howard. The SWRCB and Department of Fish and Wildlife have already determined significant increases in flows are needed. BDCP Alternative 8 and WaterFix Alternative 4H3 demonstrate that the preferred alternative infrastructure will not be viable with these necessary increased flow requirements. Once the SWRCB sets new flow requirements, the north Delta intakes and twin tunnels would become a very expensive stranded asset.

Because the export contractors control the BDCP and WaterFix process, they fought the concept of Fall X2 requirements, just as they argued in court that the south Delta export pumps are not causing fish decline (but still arguing that moving the intakes to the north Delta benefits fish). They continue to argue that fish do not need additional flows and claim in the SWRCB petition that D-1641 and the WaterFix operating rules are sufficiently protective of fish. DWR and the Department of Fish and Wildlife needs to claim back their leadership role in protecting Delta water resources and the Delta ecosystem. Give the fish what they need to recover and then develop alternatives that will also achieve a significant improvement in water supply reliability.

## **What Needs To Be Done – A Better Idea**

The situation in the Delta ecosystem is dire and an effective sustainable solution is needed now. The Cal. WaterFix preferred alternative will make things worse not better and will hinder progress toward a real solution.

As Interior Deputy Secretary said in the September 30 press release regarding the new report on “Challenges facing the Sacramento-San Joaquin Delta,” we must adopt bold, new approaches and any necessary water infrastructure improvements should be accompanied by a portfolio of actions such as water conservation and efficiency measures, habitat improvements, and improved groundwater management and storage.

Just because the BDCP proponents have spent \$250 million on the BDCP and WaterFix planning and environmental documents, and have “put a million hours into it” (Governor Brown, May 6, 2015), does not mean that WaterFix has not gone seriously off track. Just because 9 years have been largely wasted in developing BDCP and WaterFix alternatives (without any meaningful consideration of stakeholder input since 2010) does not mean that it is too late to do the right thing.

It is time to acknowledge “*the emperor has no clothes*,” stop the current export contractor only process, and invite stakeholder involvement in developing a real solution, one that actually achieves both coequal goals. We are sure no one in the current Administration wants the Delta smelt or any other of the key fish species in the Delta to go extinct on their watch.

To paraphrase your May 21 comments, there is indeed a better approach that should set you back and really cause you to reconsider what you are proposing.

The process, including the comment periods on the RDEIR/SDEIS and Army Corps application, need to be suspended, and the SWRCB water rights petition needs to be withdrawn. DWR and Reclamation need to convene a widely-represented stakeholder technical group to develop new alternatives along the following lines

1. Incorporate actions for water use efficiency and development of local water supplies to reduce the demand for water from the Delta, especially in dry months.
2. Incorporate actions to strengthen Delta levees to protect the continued (reduced) use of the south Delta export intakes, and protect the Delta as an evolving place.
3. Incorporate actions to manage and recharge groundwater basins, especially in the San Joaquin Valley. Groundwater overdraft was a major reason given for the construction of the CVP and SWP, yet no infrastructure was ever implemented to restore aquifer levels.
4. Incorporate Delta operating rules that significantly restore Delta inflows and outflows, consistent with the SWRCB’s findings in its 2010 Delta Flow Criteria report. Support implementation of these flows through the SWRCB Bay-Delta process.

5. Set protective limits on exports from the south Delta, e.g., OMR > -2,000 cfs year round. Only protecting so-called key months redirects reverse flow impacts to subsequent months which will eventually result in listings of other resident Delta fish.
6. Having established conditions necessary to achieve the goal of restoring the Delta ecosystem (which will severely restrict exports in drier months), develop storage and conveyance infrastructure to capture “new” water in wetter months. Note that most of the CALFED storage projects currently being considered by the California Water Commission will not necessarily be sufficient. One idea is to capture water in the western Delta during large flow events, store within the Delta and upstream of the California Aqueduct and DMC until capacity is available to move it to additional groundwater and surface storage south of the Delta. The current WaterFix proposal is contrary to this approach because it typically fails to maximize exports during wetter months, and instead relies on maximizing exports during drier months.

It is also important to acknowledge that the goal is no longer to merely **balance** competing beneficial uses. That is a lose-lose situation. The Delta Vision Blue Ribbon Panel and the 2009 Delta Reform Act established a new requirement to **achieve** both coequal goals, i.e., develop alternatives that create a win-win solution, for the Delta ecosystem, water supply reliability, Delta water quality and the Delta as an evolving place. The SWRCB and DWR now have an obligation to move us beyond the current lose-lose status quo. The State’s California Water Action Plan (developed by DWR and others) already acknowledges that additional storage and a portfolio of other actions is necessary to achieve a sustainable Delta solution.

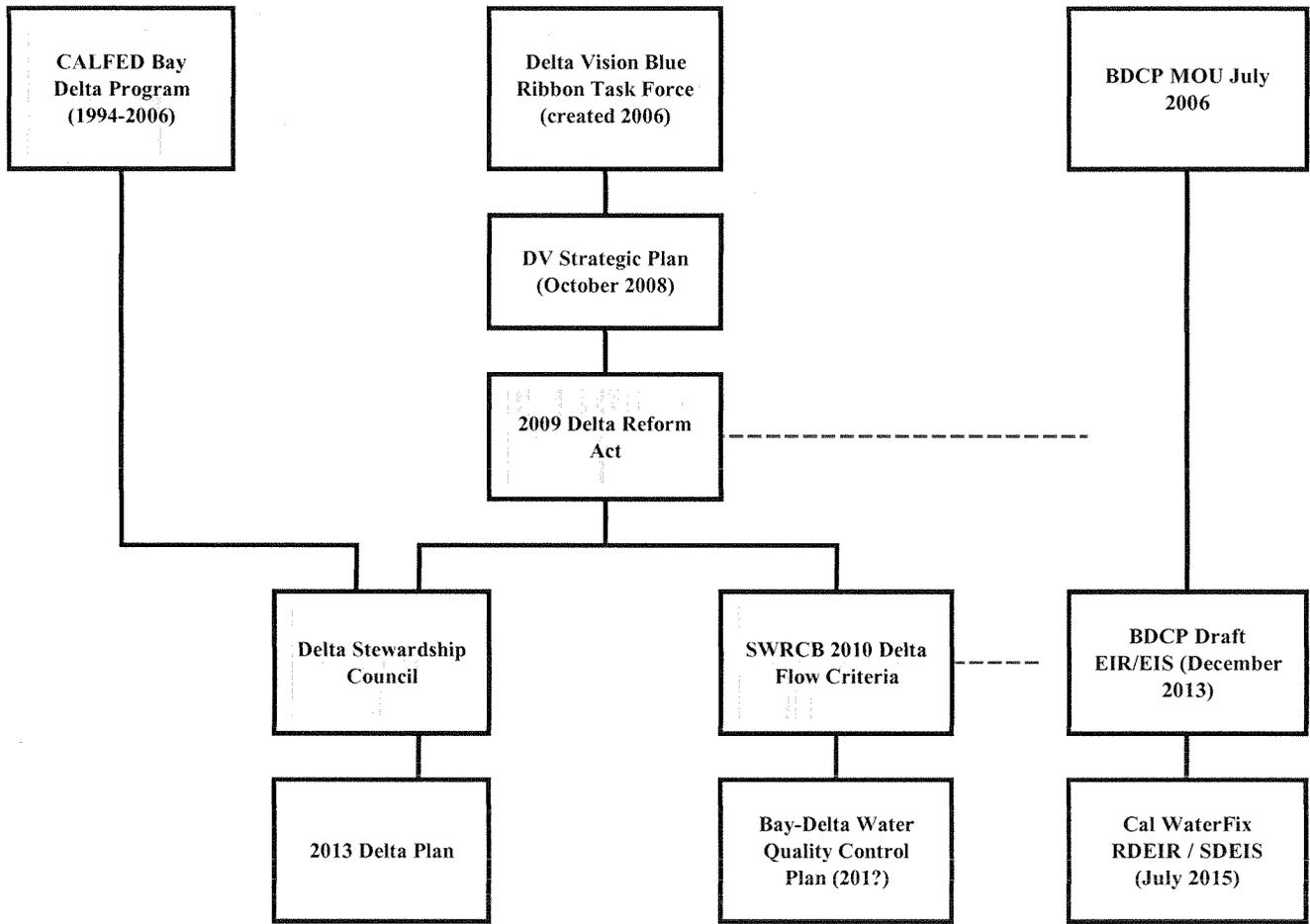
The CALFED Bay-Delta Program failed in part because no one made a commitment to fund the project. The State and federal government must find a way to fully fund this new planning effort and fund the eventual project.

A great deal of time and money has been wasted on BDCP and the Cal. WaterFix. Action and leadership is needed right now to get us back on track.

Detailed graphs of the WaterFix sensitivity analysis data and other useful documents can be found on the SWRCB WaterFix petition page  
[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/early\\_petition\\_comments/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/early_petition_comments/)

If you have any questions, please call me at (510) 339-3618.

Richard



---

**From:** Matt Corr <mcorr.kencor@gmail.com>  
**Sent:** Tuesday, October 06, 2015 5:27 AM  
**To:** BDCPcomments  
**Subject:** Twin Tunnels

I am opposed to the project. Here are some reasons. The delta is not healthy now and diverting water around it will lead to further decline. Salt content in channel is slowly killing off redwoods on two golf courses that irrigate from the channel. We need more flow-not less to alleviate the problem. Further sacrificing the estuary for corporate farming interests down south is galling. Find/create alternate storage scenarios for those interests that don't create devastation in our delta.

Matt Corr  
Stockton homeowner

Sent from my iPhone

**From:** Cheryl Johnson <cheryl.j@comcast.net>  
**Sent:** Tuesday, October 06, 2015 7:52 AM  
**To:** BDCPcomments  
**Subject:** Twin Tunnels

Please do not build those twin tunnels. To do so would only hurt the central valley more than it already is hurting. So CAL should be building dams to hold rainwater, not taking what belongs to farmers and what will ruin our economy in the Central Valley

Sent from my iPhone

**From:** Patrice Gran <granpatrice@yahoo.com>  
**Sent:** Tuesday, October 06, 2015 8:07 AM  
**To:** BDCPcomments  
**Subject:** Twin Tunnels

I am against the twin tunnel project. Please do not build them. In doing so you will destroy our Delta.

Patrice Gran  
4341 Bridgewater Place  
Stockton CA 95219

---

**From:** Mahesh Ranchhod <mranchhod46@gmail.com>  
**Sent:** Tuesday, October 06, 2015 8:34 AM  
**To:** BDCPcomments  
**Subject:** Re: Delta tunnels.

Despite all the studies, there is no clear answer that the Tunnels will not harm the Delta. Like many other man-made structures, each time we do something, there are unexpected consequences and there is no need to take such a huge risk with the Delta. There are many other ways to collect and harness water by building more Dams, increasing collection of run offs etc, without doing something that, down the road, would be seen as a big mistake.

I am opposed to the Twin Tunnels and I urge all state officials to not build these tunnels.

M. Ranchhod,  
6822 Foppiano Ln,  
STOCKTON. CA 95212.

---

**From:** Neal Fearn <nhfearn@gmail.com>  
**Sent:** Tuesday, October 06, 2015 5:46 AM  
**To:** BDCPcomments  
**Subject:** Against building tunnels

This is a total waste of money. Taking fresh water out of the delta will make the delta more salty and ruin it.

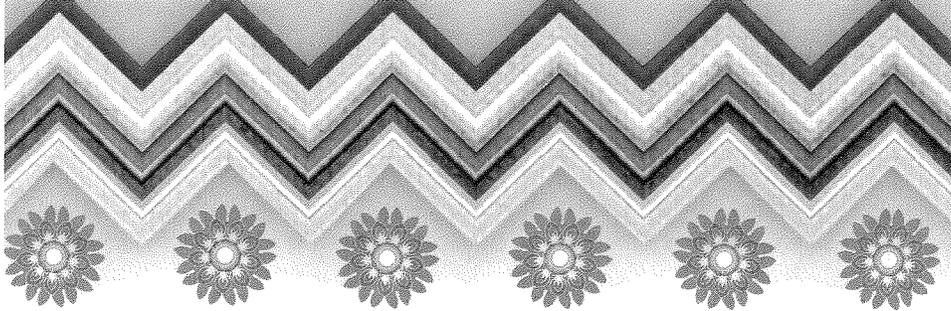
Also it is stealing water. Using state tax dollars to build tunnels that take water from one community to give to another is stealing.

The solution to this whole problem is for the state to increase the price of water that it already steals from the north. Make the price closer to the market price of water. Closer to around \$1,000 per acre foot. The demand for water in the south will obviously drop with the higher price and stop this madness.

The rich farmers in the south keep giving the state and federal politicians money that allow them to purchase government subsidized water at very low prices. They then bank the water underground and use it for almonds, pistachios, or sell it back when there is no more surface water.

Brown is doing this because he is a narcissist and wants a project with his name on it like his father. Feinstein and Boxer are doing it for the money.

It is disgusting.  
Sent from my iPad



*Learn more about the Lakota (Stonx) culture at [slp.org/culture](http://slp.org/culture).*

Sept. 30, 2015

BDCP/Water Fix Comments

Don't Kill the Delta!

Count me in for your support!

Dorothy J. Neto

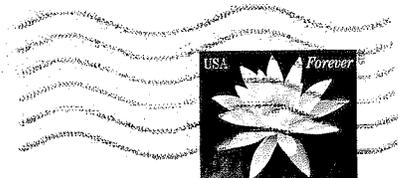
*Dorothy J. Neto*

RECEIVED  
OCT - 6 2015



SACRAMENTO CA 957

OCT 6 2015 PM 11



BDCP/Water Fix Comments  
P.O. Box 1919

OCT - 6 2015 Sacto., CA 95812



October 03, 2015

BDCP/WaterFix Comments  
P.O. Box 1919  
Sacramento, CA 95812

RECEIVED  
OCT - 6 2015

Opposition to the Delta Tunnels/California Water Fix

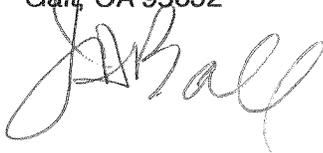
I am writing to express my strong opposition to the the Delta Tunnels plan.

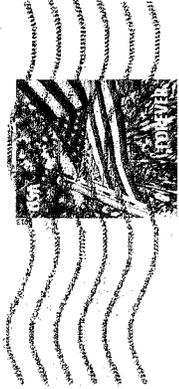
I am normally a citizen/voter that politicians love: quiet, law abiding and generally non-argumentative in the drama of politics. But the proposed Delta Tunnels/California Water Fix has angered me enough to speak out. Never before in my sixty-nine years have I seen such bullying and arrogance on the part of a state governor or his state organizations with the intent to ramrod through an agenda. Apparently most of us were naive enough to think such tactics only occurred in third world or dictator led countries. It is clear to me that Governor Brown is not basing his decisions on long term consequences for the Bay and Delta estuary or the state in general. Years ago a northeast fisherman was being interviewed about the possibility of fish catch limitations in his area of fishing. His response was a belief that the fishery should be fished out until it was gone.

Governor Brown's solution to California's water dilemma appears to be the same as the fisherman's. Drain all possible water supplies until the resource is gone. Witness the Colorado River. Unfortunately we do not elect politicians with the fortitude to make the hard decisions required to manage our water resources: stop new development, disallow agricultural watering and stop hydraulic fracking.

It seems to me that the principle being applied here is as important as the reality of the project. Why are we going to destroy one of the finest natural resources this state has?

John Ball  
13741 Christensen Rd.  
Galt, CA 95632





SACRAMENTO CA 957

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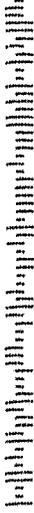
JD Ball  
13741 Christensen Rd  
Galt, CA 95632-8810

BDCP / WATER FIX COMMENTS

Po Box 1919  
SACRAMENTO, CA 95812

OCT - 6 2015

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September 28, 2015

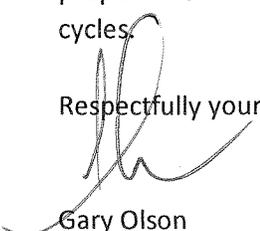
BDCP/California WaterFix Comments  
P.O. Box 1919  
Sacramento, California 95812

Dear BDCCP/California WaterFix:

With regards the Bay Delta Conservation Plan/California WaterFix (BDCP/Water Fix), we wish to state our support for Alternative 4A whose objective is to enhance the ability to capture water for drought cycles and protect the supply from natural disasters. We feel this is the proper approach in dealing with the decades old water systems in the Delta which can no longer perform reliably, and which are subject to ongoing outages from seismic activity which could lead to levee collapses.

Water needs for Southern California water require conservation means that will deal effectively with unreliable climate patterns to insure reliable and adequate supplies of water from the State Water. We believe it is vital to adopt a final plan by next year, and hope your Water/Fix Plan will be implemented in order to insure proper amounts of stored water will occur for future needs associated with drought cycles.

Respectfully yours,

  
Gary Olson  
President-CEO

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Metropolitan Water District

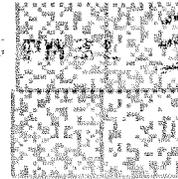
Mark Scott  
City Manager



BURBANK CHAMBER OF COMMERCE  
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BDCP/California WaterFix Comments  
P.O. Box 1919  
Sacramento, CA 95812

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## WALNUT VALLEY WATER DISTRICT



271 South Brea Canyon Road  
Walnut, California 91789-3002 • (909) 595-1268 • (626) 964-6551  
Website: www.wvwd.com • Fax: (909) 444-5521

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### LEGAL COUNSEL

**James D. Ciampa**

September 21, 2015

BDCP/California WaterFix Comments  
P.O. Box 1919  
Sacramento, CA 95812

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OCT - 6 2015

Dear BDCP/California WaterFix:

On behalf of the Walnut Valley Water District, I would like to provide the following comments on the Bay Delta Conservation Plan/California WaterFix (BDCP/WaterFix) and its recirculated draft environmental impact statement/report released on July 10, 2015.

The Walnut Valley Water District relies on State Water Project (SWP) supplies as an important component of Southern California's overall water portfolio. The SWP is uniquely capable of capturing significant quantities of wet-year and wet period supplies, allowing the Metropolitan Water District of Southern California to store these supplies for drought-cycle needs. Were it not for SWP supplies Metropolitan had stored prior to this historic drought cycle, the Southland would be in the throes of a devastating water shortage and severe economic hardship. The ability of the SWP to reliably capture wet-period water is at severe risk due to the existing configuration of the pumping system, regulatory constraints and long-term threats due to climate change and catastrophic natural events such as earthquakes and flooding.

The modified preferred alternative outlined in BDCP/WaterFix represents a significant shift in this nine-year planning process that Walnut Valley Water District must review and consider carefully. BDCP began as an effort that sought to combine water system and ecosystem improvements within a single permitting construct as a habitat conservation plan under Section 10 of the federal Endangered Species Act (ESA) and as a Natural Communities Conservation Plan under the State ESA law. The modified preferred alternative (Alternative 4a) delineates a different approach, with the WaterFix intake/conveyance improvements proceeding as a stand-alone project with ESA permitting acquired similar to the approach under the existing ESA permitting/regulatory construct of the SWP. Approximately 30,000 acres of proposed Delta ecosystem improvements, meanwhile, would proceed on a parallel, but separate program now as California EcoRestore. The Walnut Valley Water District understands that the rationale of this modification is to identify an achievable path to permitting given overwhelming scientific uncertainty on how to best manage the Delta in the coming decades. The ability of public water agencies to participate in a historic reinvestment of the SWP will rely on a final plan that meets the state co-equal goals of a reliable water supply and restoration of the Delta.

We remain supportive of the overall proposed configuration of the water supply improvements. New intakes in the northern Delta on the Sacramento River would provide the opportunity to divert high-quality supplies and address reverse-flow conditions in the southern Delta that are a result of the existing diversion system. The proposed twin-tunnel conveyance system would protect this supply long-term from threats such as seismic events and sea level rise. Proposed project modifications, such as the consolidation of intake pumping into a single facility in the southern Delta on SWP property near Clifton Court Forebay, have further reduced the physical footprint in sensitivity to Delta communities and existing land use activities. And we continue to support efforts to improve real-time monitoring and embrace adaptive management as essential ways to refine project operations over time to protect both threatened natural fisheries and water supply reliability.

The following comments are consistent with, and supplement, the long-standing six criteria for a Delta solution as established by the Metropolitan Water District Board of Directors (attached):

- **Water Supply Reliability:** A successful final plan would accomplish several reliability needs: It would re-establish a consistent ability to capture wet-period supplies in a range of year types. It would improve reliability of deliveries in an average year. And it would protect supplies long-term. The draft EIR/EIS provides some information that is useful for analysis. Yet, more and better information would be helpful to compare potential water supply capabilities under various future scenarios since Metropolitan has invested billions of dollars to develop a storage and distribution system designed to capture SWP supplies when they are available and limit demands on the SWP system during dry periods. We refer to this water management strategy as the big gulp, little sip approach.
- **Project Mitigation:** The preferred alternative significantly increases habitat mitigation related to construction compared to the very same project as proposed in the draft EIR/EIS in December 2013. Little rationale is provided for the increased mitigation requirements. While full mitigation for project impacts is always appropriate, placing an excessive burden on mitigation for any project, particularly the size of California WaterFix, is not. A careful review of all the target mitigation acreages is appropriate in order to settle on a final mitigation strategy that is commensurate with impacts. Shifting away from a habitat conservation plan is not a reason to conflate mitigation requirements for the project and unduly impact the final project's cost.
- **Improved Water Quality:** The preferred alternative continues to advance the objective of improving water quality of SWP supplies. High source quality for this imported supply is essential for Southland communities to increase the production of recycled water. In addition, the new modeling and analysis of in-Delta water quality, as a result of proposed water project operations, is helpful information to assure that the state can meet overall water quality objectives in the estuary.
- **Flexible Pumping Operations in a Dynamic Fishery Environment:** The preferred alternative continues to advance the objective of avoiding conflicts with migrating fish species. It is particularly important to embrace an adaptive management approach to project operations to resolve fall outflow requirements for delta smelt, spring outflow requirements for longfin smelt, and operating constraints for south Delta diversions. Significant improvements in water reliability may be achievable without adversely affecting habitat conditions for important fish species. Management of this system must be as dynamic as the estuary itself.

- **Delta Ecosystem Restoration:** Under the preferred alternative, this responsibility shifts from BDCP to California EcoRestore. This is proposed to be a program separate from California WaterFix. And officially, California EcoRestore is not part of this public comment process. However, this recirculation does provide an opportunity to share input. State agencies need to better clarify their leadership roles in projects identified in California EcoRestore. Whether the state intends to be a lead agency on any given project, for example, remains to be seen. The acreage targets and timetables set forth in California EcoRestore cannot be achieved without lead agencies, expeditious planning and securing the necessary financing. While California EcoRestore is a promising and potential construct for habitat restoration, basic operational details remain unclarified. A more robust program is essential in order to demonstrate that water system investments will be matched with commensurate ecosystem improvements.
- **Seismic and Climate Change Risks:** The modified preferred alternative continues to provide the necessary design and system redundancy to reduce both seismic and climate change risks. Research into seismic risk is continuing. As an example, the potential of levee collapse due to the compaction of peat soils is a new and relatively poorly understood failure mechanism. Previous studies had largely centered on soil liquefaction. The likelihood of levee failure due to a natural disaster appears to be increasing, rather than decreasing, with improved scientific information and understanding. Reducing these risks is paramount to water supply reliability. The conveyance improvements must be sized sufficiently to capture water when it is available. Initial proposals for a larger conveyance system were not pursued due to feedback from wildlife agencies. The final project must be sufficiently sized to adequately address these risks.
- **Governance and Adaptive Management:** As a habitat conservation plan, BDCP had been proposing a detailed governance structure in order to implement various conservation measures. The modified preferred alternative no longer proposes to advance a habitat conservation plan. However, an adaptive management process to guide future water project operations is essential to the long-term success of California WaterFix. The same holds true for advancing tidal and floodplain habitat restoration projects as mandated in the existing biological opinions for pelagic and anadromous fish species. The need for an effective governance/adaptive management structure in partnership with the public water agencies is as necessary under California WaterFix/California EcoRestore as it was under the previous BDCP construct. Such a structure must be fully detailed and agreed upon before decisions can be made by public water agencies to invest in a final project proposal.

This recirculation process represents the final milestone before advancing to a final EIR/EIS and Record of Decision. This represents our final opportunity to provide formal public comments prior to the final phase of this historic planning effort. We appreciate the exhaustive efforts of both the state and federal administrations to advancing this process so that a final project and proposal can be advanced sometime next year. It is essential to expeditiously resolve outstanding issues in order for the administrations to complete this process within financial and time constraints.

Thank you for your efforts and for considering our comments.

Very truly yours,

WALNUT VALLEY WATER DISTRICT

  
THEODORE EBENKAMP  
President, Board of Directors

TE:MH

**Walnut Valley Water District**

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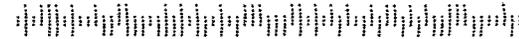


ZIP 91789  
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BDCP/California WaterFix Comments  
P.O. Box 1919  
Sacramento, CA 95812

OCT - 6 2015

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**From:** Lee Johnson <bcarly@sbcglobal.net>  
**Sent:** Tuesday, October 06, 2015 9:31 AM  
**To:** BDCPcomments  
**Subject:** twin tunnels

You will not build those tunnels and devastate the economy an my home of 56 years. That money needs to stay in San Joaquin Co fixing roads and bridges. Our streets in our neighborhood are so bad you drive an obstacle course to get where you are going. Water is a precious thing and we need to keep ours for our county and our Delta. Lee and Carleen Johnson, registered voters.

---

**From:** James J. Orsi <jim\_orisi@att.net>  
**Sent:** Tuesday, October 06, 2015 10:13 AM  
**To:** BDCPcomments  
**Subject:** Twin Tunnels

I strongly oppose the construction of the Twin Tunnels. I have lived in and worked and fished the Delta for 50 years and seen its fisheries decline as more and more water has been sucked out of it. The tunnels will most probably cause some very abnormal situations to develop in the Delta and further degrade it. Other means must be found to supply southern California with water.

James Orsi

---

**From:** ariebev@aol.com  
**Sent:** Tuesday, October 06, 2015 10:30 AM  
**To:** BDCPcomments  
**Subject:** Twin tunnels

To whom it may concern:

Do not waste billions of dollars of money building the twin tunnels. It will not generate a single drop of new water and it will decimate the Delta. The

Delta is in bad enough condition already. Find other ways for the southern end of the state to get water.

Arie Hope  
2220 River Dr.  
Stockton, CA. 95204

---

**From:** Katherine Setness <katherine@setness.com>  
**Sent:** Tuesday, October 06, 2015 9:48 AM  
**To:** BDCPcomments  
**Subject:** Twin Tunnel Proposal

Although I was raised in the southern San Joaquin Valley and continue to hold property interests in Tulare County, I strongly urge that the twin tunnel project be defeated. California and the United States have lost over 90% of our historic wetlands and the twin tunnels would greatly impact the fish and bird population throughout the Delta, not to mention well over 100 years of a way of life for those who live in the Delta or enjoy recreation in the area. I understand that powerful political interests are advocating that more water be sent south, but doing so would be an environmental and economic nightmare for the Delta and the areas around it.

Katherine Setness  
2512 W. Benjamin Holt Drive  
Stockton, CA 95207

---

**From:** skydrivr@aol.com  
**Sent:** Tuesday, October 06, 2015 9:32 AM  
**To:** BDCPcomments; skydrivr@aol.com  
**Subject:** Tunnels

Please add my comments to the list of those who do NOT favor the tunnels. I have read enough about this project to understand that diverting water from a source above the delta region can in no way HELP the delta. I do not understand the mentality of elected officials that support such an expensive project and bypass such issues as greater storage, reclamation, and possible desalination plants for a state that is located on a massive water source like the Pacific ocean. Yes, I understand that it is expensive to desalt water, but it makes more sense as an emergency backup or supplemental source than building a tunnel to transport water that may not even exist to transport if we go another year like this last one. The votes may be in Southern Ca, and maybe that is Mr. Brown's support base, but I believe he is very misguided. Use your head people. Think outside the box!

Dan Offield

**From:** Emil Tanase <etanase@yahoo.com>  
**Sent:** Tuesday, October 06, 2015 10:39 AM  
**To:** BDCPcomments  
**Subject:** NO on building the water tunnels

My answer is NO. You can't take our water away from this area to go to the south! You will destroy our communities in here in San Joaquin!

NO  
NO  
NO

Emil Tanase DDS

---

**From:** Mary Geranio <mgeranio@saintmaryshighschool.org>  
**Sent:** Tuesday, October 06, 2015 11:50 AM  
**To:** BDCPcomments  
**Subject:** Tunnels

You will not ruin my home on the Delta by building the tunnels!!!

Respectfully,

--

*Mary Geranio*

Attendance Secretary

Saint Mary's High School  
(209)957-3340 x122

[attendance@saintmaryshighschool.org](mailto:attendance@saintmaryshighschool.org)

---

**From:** Mary Mendez <Fatkacey@gmail.com>  
**Sent:** Monday, October 05, 2015 2:20 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

Humans have made their bed and should now, instead of lying on it, work for a better way to resolve the water issue. Humans, no matter how many time you say it, will NOT stop their water abuse. Water CAN BE saved, but it must be a world effort. Those that abuse water should pay the price. Why should wildlife pay the price for the stupidity and abuse of water by humans?? This may be a "FIX" for CA, but it will not end there. Humans are a bunch of spoiled, rotten, stupid people. You can't fix stupid by taking water from those whose life depends on it. Let's take air away from humans and see how THEY feel!!

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Mary Mendez  
5708 Eastern Ave., SE #18  
Albuquerque, NM 87108  
US

---

**From:** Vicki Olds <volds@studioreflex.com>  
**Sent:** Monday, October 05, 2015 3:40 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I strongly oppose the Delta Tunnels plan that favors unsustainable BigAg practices and profits and jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values.

The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance.

For all these reasons, I urge you to reject this harmful project.

Sincerely,

Vicki Olds  
534 6th Avenue  
San Francisco, CA 94118  
US

---

**From:** Darlene Kramer <catboxtree@hotmail.com>  
**Sent:** Monday, October 05, 2015 12:14 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

Simply put, this is merely "robbing Peter to pay Paul"--taking water from a natural source (and its inhabitants) for the benefit of artificial "needs" (growing crops that are too water dependent for the environment).

Far less expensive and less environmentally destructive alternatives to the Delta Tunnels were largely ignored -- alternatives that would save taxpayers billions of dollars, while investing in the jobs and local water sources that build sustainability. The plan does not seriously consider any alternatives other than new, upstream conveyance. And the decision-making process has tilted in favor of increasing delta water exports. For all these reasons, I urge you to reject this harmful project.

Sincerely,

Darlene Kramer  
21 s 20 st  
belleville, IL 62226  
US

---

**From:** Kevin Bedard <tabbysky@gmail.com>  
**Sent:** Monday, October 05, 2015 2:22 PM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

Protect these waters from exploitation and keep the Salmon running!

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

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Sincerely,

Kevin Bedard  
34118 Berg Ln  
Pine, CO 80470  
US

---

**From:** Adele E Zimmermann <locoadele@cybermesa.com>  
**Sent:** Tuesday, October 06, 2015 7:25 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

AFTER ALL THAT WATER IS SUCKED UP BY BIG AGRICULTURE AND THE WETLANDS HAVE BEEN DESTROYED - THAN WHAT WILL YOU DO?

I am writing to express my strong opposition to the Delta Tunnels plan. The so-called "California WaterFix" will not produce more water, create more reliable supplies or improve environmental conditions in the delta. Instead it will unacceptably jeopardize the existence of endangered salmon runs and other native fish populations in the Sacramento River and Bay-Delta estuary.

The WaterFix fails to meet the restoration goals of the Delta Reform Act of 2009, in which the California state legislature committed to the "coequal goals" of providing a more reliable water supply for the state while protecting and restoring the delta's cultural, recreational, natural resource and agricultural values. The WaterFix is simply a plan to export more water out of the Bay-Delta estuary. The Delta Tunnels will not provide more reliable water because the delta watershed is already oversubscribed by five times in normal water years.

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Sincerely,

Adele E Zimmermann  
HC 69 BOX 4B  
NM, NM 87531  
US

---

**From:** Susan Lee <equality@tampabay.rr.com>  
**Sent:** Tuesday, October 06, 2015 10:06 AM  
**To:** BDCPcomments  
**Subject:** Oppose the Delta Tunnels (California WaterFix, Alternative 4A)

Dear BDCP Officials,

Alleged "quick fixes" are NEVER the answer and are NEVER fixes! They have just about always created MUCH worse problems in their aftermath. PLEASE do not be seduced by just another of the billions throughout history of "If it sounds too good to be true, then it is." (Not just "probably" is, but IS>)

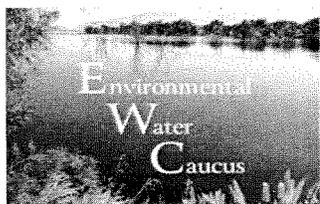
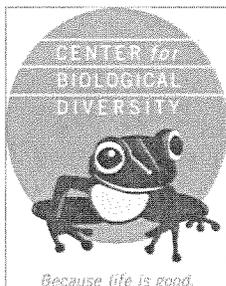
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Sincerely,

Susan Lee  
4221 W. Spruce St., #2207  
Tampa, FL 33607  
US



October 6, 2015

Via Email and U.S. Mail

The Honorable Sally Jewell  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240  
[exsec@ios.doi.gov](mailto:exsec@ios.doi.gov)

John Laird, Secretary  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814  
[Kimberly.goncalves@resources.ca.gov](mailto:Kimberly.goncalves@resources.ca.gov)

The Honorable Penny Pritzker  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230  
[thesec@doc.gov](mailto:thesec@doc.gov)

Mark W. Cowin, Director,  
California Department of Water Resources  
P.O. Box 942836, Room 1115-1  
Sacramento, CA 94236-0001  
[Mark.cowin@water.ca.gov](mailto:Mark.cowin@water.ca.gov)

The Honorable Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
WJC North, Room 3,000 1101A  
Washington, D.C. 20460  
[McCarthy.Gina@epa.gov](mailto:McCarthy.Gina@epa.gov)

David Murillo, Regional Director  
U.S. Bureau of Reclamation  
2800 Cottage Way  
Sacramento, CA 95825  
[dmurillo@usbr.gov](mailto:dmurillo@usbr.gov)

[BDCPCComments@icfi.com](mailto:BDCPCComments@icfi.com)

**RE: RDEIR/SDEIS Comments and Request for BDCP Agencies to Comply with the federal Clean Water Act by protecting designated/beneficial uses, meeting and exceeding water**

**quality criteria, and preventing degradation of San Francisco Bay-Delta Estuary water quality.**

Dear Secretary Jewell, Secretary Pritzker, Administrator McCarthy, Secretary Laird, Director Cowin, Regional Director Murillo, and Federal and California Agencies, Officers, and Staff Members Carrying out and Reviewing the BDCP/"California Water Fix":

*Summary*

Restore the Delta, Earth Law Center, Friends of the River (FOR), the Center for Biological Diversity, the California Water Impact Network, the California Sportfishing Protection Alliance, and the Environmental Water Caucus (EWC, a coalition of over 30 nonprofit environmental and community organizations and California Indian Tribes) object to the adverse water quality effects which would occur under the Bay Delta Conservation Plan (BDCP)/California Water Fix/Water Tunnels project (Water Tunnels project). Under the BDCP, three large new intakes would divert vast amounts of water from the Sacramento River between Clarksburg and Courtland through two tunnels roughly 35 miles south for export from the Central Valley and State Water Projects' pumping plants. As a result of this massive new diversion ("Water Tunnels project"), enormous quantities of freshwater which now flow through the Sacramento-San Joaquin Delta before being diverted would never even reach the Delta.

*The BDCP Delta Water Tunnels project is not a permissible project under the federal Clean Water Act (CWA) because it would degrade water quality in the San Francisco Bay-Delta Estuary. This in turn will adversely impact numerous recognized beneficial uses and public health. The Water Tunnels project will require a Clean Water Act Section 401 certification, it cannot legally be given one since it will not comply with established water quality standards. We previously addressed on July 22, 2015, the failure of the BDCP agencies to develop and consider a range of reasonable alternatives increasing Delta flows by reducing exports, and on September 9, 2015, the impermissible substantive and Section 7 process violations of the Water Tunnels project with respect to the federal Endangered Species Act.*

To summarize<sup>1</sup>, **first**, the Delta Water Tunnels project will violate water quality standards. **Second**, because the state cannot issue a 401 certification to a Water Tunnels Project that does not meet water quality standards and objectives, the Corps of Engineers cannot legally issue a 404 permit regulating dredge and fill in waters of the United States. **Third**, the Water Tunnels project has no defensible antidegradation analysis in either the Draft EIR/EIS or the Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS), which is required for compliance with the Clean Water Act. And the lack of an adequate antidegradation analysis is yet another reason the state will be unable to issue the 401 certification. **Fourth**, the Water Tunnels project threatens to dictate water quality objectives and prejudice ongoing State Water Resources Control Board's

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<sup>1</sup> This letter draws on previous comments in letters submitted timely on the Bay Delta Conservation Plan by Earth Law Center, July 28, 2014, accessible at [http://www.friendsoftheriver.org/site/DocServer/xBDCP\\_Comments\\_Aug\\_2014\\_0003949.pdf?docID=9362](http://www.friendsoftheriver.org/site/DocServer/xBDCP_Comments_Aug_2014_0003949.pdf?docID=9362); California Sportfishing Protection Alliance, No. 2 on Water Quality, July 28, 2014, accessible at [http://www.friendsoftheriver.org/site/DocServer/xBDCP\\_Comments\\_Aug\\_2014\\_0002679.pdf?docID=9241](http://www.friendsoftheriver.org/site/DocServer/xBDCP_Comments_Aug_2014_0002679.pdf?docID=9241); and Environmental Water Caucus, June 11, 2014, accessible at [http://www.friendsoftheriver.org/site/DocServer/xBDCP\\_Comments\\_Aug\\_2014\\_0006165.pdf?docID=9585](http://www.friendsoftheriver.org/site/DocServer/xBDCP_Comments_Aug_2014_0006165.pdf?docID=9585), as well as preliminary review of the Bay Delta Conservation Plan/California WaterFix 2015 RDEIR/SDEIS.

Bay-Delta Water Quality Control Plan Phase 1 and 2 processes, in violation of the Clean Water Act.<sup>2</sup> *Finally*, the proposed project fails to meet the Clean Water Act's requirement for the Least Environmentally Damaging Practicable Alternative (LEDPA).

It deserves special mention that four million people in the five Delta counties depend on good water quality in the Delta for their livelihoods and quality of life. Nearly one million Delta residents depend on the Delta as their primary drinking water supply. To improve the Delta as a fishable, swimmable, drinkable, and farmable region will require protecting and enhancing the Estuary's water quality, pure and simple. If we are to leave generations to come an Estuary with sustained and diverse ecological fertility, the Estuary deserves and needs more flowing water, cleansed of the pollutants that now plague it, and state and federal rejection of the Water Tunnels Project will help in realizing this goal.

***The Delta Water Tunnels project will violate water quality standards for flow and other parameters, preventing necessary Clean Water Act Section 401 certification.***

Historically, the Bay-Delta Estuary has been enormously productive, a magnet for many aquatic species to reproduce in and migrate through. Its native species evolved to take advantage of the Estuary's annual and seasonal variations in water quality and flow. As the seasons change, the Bay Delta Estuary cycles through such ecological roles as aquatic nursery, restaurant, and crossroads. The Delta's communities and economy were built on this ecological foundation. The health of this diverse ecosystem depends on having variable and good water quality that benefits each of these roles.

Development and implementation of the Water Tunnels project must be accountable to the CWA. Sound planning dictates that implementation of the CWA's requirements should begin *now*, to prevent violations by the Water Tunnels project. One CWA requirement that will arise during Water Tunnels project implementation is CWA Section 401 certification, which is necessary for any "[f]ederal license or permit to conduct any activity ... [that] may result in any discharge into navigable waters."<sup>3</sup>

The California Department of Water Resources and the United States Bureau of Reclamation filed an application for a CWA Section 404 dredge and fill permit with the US Army Corps of Engineers on August 24, 2015, and they filed an application for a 401 certification on September 23, 2015 with the State Water Resources Control Board (SWRCB).<sup>4</sup> The 404 permit will be needed from the Army Corps of Engineers because construction of the Water Tunnels

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<sup>2</sup> The project may, on one hand, receive conditional permits for the north Delta intakes of the Tunnels Project, including gapping exemptions from water quality standards that undermine beneficial that should be protected by the water quality control plan. On the other hand, the Tunnels project will prejudice the Phase 1 and 2 processes with premature diversion and 404 permit requests, potential Delta island purchases by the Metropolitan Water District of Southern California, as well as the inadequate Tunnels environmental review process. Under both of these circumstances, the Tunnels Project tail threatens to wag State Water Board and Army Corps dog.

<sup>3</sup> 33 U.S.C. § 1341(a)(1).

<sup>4</sup> Accessed September 15, 2015, at <http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices/tabid/1035/Article/616568/spk-2008-00861-california-waterfix-project.aspx>.

project will result in discharges of dredge or fill material into waters of the United States.<sup>5</sup> Section 401 requires that the SWRCB certify that the Corps' Section 404 permit meets CWA requirements before the permit may be legally issued.<sup>6</sup> State and federal agencies have long recognized the importance of this requirement, meeting several times to discuss it in the context of the preparation of the Water Tunnels project EIR/EIS.<sup>7</sup>

***The project reduces Delta freshwater flow conditions in violation of CWA requirements to fully protect the most sensitive beneficial uses.*** The inadequate flow proposals of the Water Tunnels project EIR/EIS alternatives will ensure that its implementation trips over mandatory compliance with the CWA. Flow regimes that fully protect Delta ecosystems and aquatic species are necessary to avoid this result.

CWA regulations dictate that adopted criteria must protect the “most sensitive” beneficial use.<sup>8</sup> The SWRCB's August 2010 flow criteria report used science to identify the *minimum* amount of unimpaired flow that would protect Delta fish species and habitats. That report thus reflects flows needed to comply with CWA mandates. A new Bay-Delta Plan adopting the Water Tunnels project's proposed flow regimes would fall significantly short of this benchmark, and thereby would fail to protect the most sensitive beneficial uses as required by the CWA.

Indeed, instead of improving flow conditions in the Delta, the Water Tunnels project will actually *increase* average exports<sup>9</sup> and *reduce* already inadequate Delta outflow in many months. Specifically, on average for February through June, the Water Tunnels project would *decrease*

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<sup>5</sup> “Many of the actions that will be implemented under the Water Tunnels project will result in the discharge of dredged or fill materials into waters of the United States and will need to be authorized by USACE.” Public Draft Plan § 1.3.7.1 (Nov. 2013), available at: [http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Public\\_Draft\\_BDCP\\_Chapter\\_1\\_-\\_Introduction.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_Chapter_1_-_Introduction.sflb.ashx). This is no less true of intake construction of the “California WaterFix” version (Alternative 4A) of the Water Tunnels project.

<sup>6</sup> “No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.” 33 U.S.C. § 1341(a)(1).

<sup>7</sup> As reflected by U.S. EPA in its comments on these discussions: “[a]lthough there is no statutory requirement that the NEPA document prepared for an HCP under the Endangered Species Act be used as the basis for permits and certifications required under CWA §404 to authorize and implement the project, EPA recognizes the importance of coordination in federal review. Toward this end, EPA and the Corps have met with the project proponent on numerous occasions over the past several years in the interest of using the BDCP EIS/EIR to inform the Corps' 404 regulatory decisions. Despite these efforts, significant unresolved issues remain about the scope of analysis for the proposed project, the level of detail required to trigger the consultation process and federal permitting, and the structure of a comprehensive permitting framework for the proposed project.” U.S. EPA, “EPA's Comments on BDCP ADEIS,” p. 6 (July 03, 2013), available at: [www2.epa.gov/sites/production/files/documents/july3-2013-epa-comments-bdcp-adeis.pdf](http://www2.epa.gov/sites/production/files/documents/july3-2013-epa-comments-bdcp-adeis.pdf).

<sup>8</sup> 40 CFR § 131.11 (“For waters with multiple use designations, the criteria shall support the most sensitive use”); see also 40 CFR §131.6.

<sup>9</sup> See Public Draft Plan, App. 5B, Fig. 5.B.4-4, available at: [http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Public\\_Draft\\_BDCP\\_EIREIS\\_Appendix\\_5B\\_-\\_Responses\\_to\\_Reduced\\_South\\_of\\_Delta\\_Water\\_Supplies.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_EIREIS_Appendix_5B_-_Responses_to_Reduced_South_of_Delta_Water_Supplies.sflb.ashx). See also BDCP/California WaterFix, RDEIR/SDEIS, 2015, Section 4.3.1, Figures 4.3.1-15, -16, -18, -19, -20, and -21.

Delta outflow by about 1,000 cubic feet per second and also *decrease* the median Delta outflow by about 2,000 cfs.<sup>10</sup> For the period of January through June (the time period during which the August 2010 Flow Criteria from the SWRCB called for an increase of outflow to 75 percent of unimpaired Delta outflow), the BDCP *decreases* outflow. Water Tunnels project modeling shows that long-term average Sacramento River flows below the north Delta intake diversions would *decrease* between 6 to 38 percent from current and future flows without the Tunnels project, and in wet years river flows would decrease between 7 and 42 percent. Overall, monthly lower Sacramento River flows are projected by “California WaterFix” to decrease between 20 and 24 percent. (See Attachments 1, 2, and 3 to this letter.)<sup>11</sup>

Decreased flows and increased residence times will cause the designated beneficial uses of migratory and rare fish species to decline, according to Water Tunnels Project RDEIR/SDEIS modeling results. Through-Delta survival rates of the juvenile and smolt life stages of winter-run, spring-run, fall-run and late-fall-run Chinook salmon are all expected to decrease relative to both existing conditions and the No Action Alternative. (See Attachment 4 to this letter.) These fish species are “rare and endangered species” beneficial uses as well as “migration of aquatic organisms” beneficial uses. These reduced flows will decrease the size of critical open water estuarine habitat beneficial uses for state and federally-listed species like Delta smelt and longfin smelt, both of which count also as rare and endangered beneficial uses under the current Bay-Delta Water Quality Control Plan.<sup>12</sup> The U.S. EPA expressed serious concerns about the EIR/EIS Administrative Draft’s (ADEIS) proposed decrease in outflow “despite the fact that several key scientific evaluations by the federal and State agencies indicate that *more* outflow is necessary to protect aquatic resources and fish populations.”<sup>13</sup> The Water Tunnels project’s flow regime will violate the beneficial uses of affected waterways and therefore violate water quality objectives. In order to receive the Section 404 permit, DWR and the Bureau of Reclamation must revise the Water Tunnels project to ensure that it fully protects all designated beneficial uses.

***The project increases Delta contamination, resulting in violations of pollutant criteria.***  
Reduced through-Delta flows will stagnate water conditions and cause Delta water quality to

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<sup>10</sup> See Public Draft Plan, App. 5C, Attachment 5.C.A, Table C.A-41, available at: [http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Public\\_Draft\\_BDCP\\_Appendix\\_5C\\_-\\_Part\\_5\\_-\\_Flow\\_Passage\\_Salinity\\_and\\_Turbidity.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_Appendix_5C_-_Part_5_-_Flow_Passage_Salinity_and_Turbidity.sflb.ashx).

<sup>11</sup> Estimates derived by Restore the Delta from graphical analysis interpolating data in Figures 4.3.2-7 and 4.3.2-8 from the Recirculated Draft EIR/EIS, Section 4.3. See Attachment 1 to this letter. See also Appendix B, Tables B. 7-28 (downstream of north Delta intakes), B.7-30 (Sacramento River at Rio Vista), B.7-32 (Delta outflow), and B. 7-34 (San Joaquin River at Vernalis), pp. B-357 to B-370. These tables show that most changes are *decreases* in flow of 5 percent or more compared with Existing Conditions *and* the No Action Alternative (especially along the Sacramento River downstream of the north Delta intakes). Only slight improvements occur in just a handful of months and water year types. Most San Joaquin River flows at Vernalis between February and September in most water year types decrease greater than 5 percent relative to existing conditions as well.

<sup>12</sup> State Water Resources Control Board, *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary*, December 13, 2006, p. 9.

<sup>13</sup> U.S. EPA, “EPA Comments on Administrative Draft EIR/EIS, III Aquatic Species and Scientific Uncertainty, Federal Agency Release,” p. 4 (July 18, 2013) (emphasis added), available at: <http://www2.epa.gov/sites/production/files/documents/july3-2013-epa-comments-bdcp-adeis.pdf>.

deteriorate badly. (See Attachment 5 to this letter, citing model results supporting this analysis.) RDEIR/SDEIS modeling documents find that the project will violate standards for boron, bromide, chloride, electrical conductivity, nitrate, dissolved organic carbon, mercury, and selenium.<sup>14</sup> While these constituents' concentrations will *increase* in western and central Delta locations, as well as Contract Costa Water District's Pumping Plant No. 1, their concentrations are expected to *decrease* in export waters of the North Bay Aqueduct in Barker Slough, and Jones Pumping Plant and Banks Pumping Plant in the south Delta. These results hold for both changes compared with existing conditions as well as the No Action Alternative, the latter of which factors out most sea level rise and climate change impacts.

***Because it cannot meet water quality standards, the Water Tunnels Project cannot obtain the required Clean Water Act 401 Certification it needs for a 404 permit to build the project.*** To obtain CWA Section 401 certification, the project at issue must meet several CWA requirements, including the requirement to meet water quality standards under CWA Section 303.<sup>15</sup> If these requirements are met, then either the Regional Water Quality Control Boards (RWQCB) or the SWRCB may grant Section 401 certification.<sup>16</sup>

As implementing U.S. EPA regulations assert,<sup>17</sup> Section 401 certification “shall” include “a statement that there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards.”<sup>18</sup> In other words, the state *cannot* grant Section 401 certification to a project if there is no reasonable assurance that it will meet water quality standards. The examination of whether a project violates water quality standards does not include “balancing” factors such as economic considerations – a project either meets water quality standards, or it does not.<sup>19</sup> Furthermore, as confirmed by the 1994 U.S. Supreme Court decision in *PUD No. 1 of Jefferson County v. Washington Department of Ecology (PUD No. 1)*, CWA Section 401 certification considers the impacts of the *entire* activity – not just

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<sup>14</sup> RDEIR/SDEIS, Appendix B.

<sup>15</sup> 33 U.S.C. § 1341(a)(1), (d). A state agency may also condition, deny or waive certification under certain circumstances. See also 33 U.S.C. § 1341(a)(1)–(2), and 33 U.S.C. § 1341(d). According to § 401(d), certification “shall set forth any effluent limitations and other limitations ... necessary to assure that any applicant” complies with certain provisions of the CWA. The Supreme Court in *PUD No. 1 of Jefferson County v. Washington Department of Ecology* held that this includes CWA §303, since § 301 incorporates it by reference. *PUD No. 1 of Jefferson County v. Washington Department of Ecology*, 511 U.S. 700, at 713–715 (1994) (PUD No. 1).

<sup>16</sup> In California, the Regional Water Quality Control Boards are responsible for granting water quality certification, unless the project occurs in two or more regions, in which case the SWRCB is responsible. See SWRCB, “Instructions for Completing the Clean Water Act Section 401 Water Quality Certification Application” (Jan. 2005), available at: [www.swrcb.ca.gov/centralcoast/water\\_issues/programs/401wqcert/docs/instruct\\_401\\_wq\\_cert\\_app.pdf](http://www.swrcb.ca.gov/centralcoast/water_issues/programs/401wqcert/docs/instruct_401_wq_cert_app.pdf).

<sup>17</sup> The Supreme Court held that the EPA’s interpretation is consistent with the CWA in *PUD No. 1*.

<sup>18</sup> 40 CFR § 121.2(a)(3); *PUD No. 1* at 712.

<sup>19</sup> 40 CFR § 131.11 (“For waters with multiple use designations, the criteria shall support the most sensitive use”); see also 40 CFR §131.6. As noted by the state Supreme Court, Porter–Cologne “cannot authorize what federal law forbids”; that is, California cannot allow for the “balancing away” of the most sensitive beneficial uses in a reliance on Porter–Cologne rather than the Clean Water Act. *City of Burbank v. State Water Resources Control Bd.*, 35 Cal. 4th 613, 626, 108 P.3d 862 (2005).

impacts of any particular discharge that triggers Section 401.<sup>20</sup> For the Water Tunnels project to receive Section 401 certification, the *entire project* must show it can be built and operated so as to meet all water quality standards. This it will not do, as we show in this letter and its attachments, because water quality standards cannot be met under the currently-proposed Water Tunnels project flow regimes and related effects on estuarine water quality and beneficial uses.

The CWA states that water quality standards “shall consist of the designated uses of the navigable waters involved *and* the water quality criteria for such waters based upon such uses.”<sup>21</sup> In other words, “a project that does not comply with a designated [*i.e.*, beneficial] use of the water does not comply with the applicable water quality standards.”<sup>22</sup> This fundamental CWA mandate does not change when the impact on beneficial uses arises from altered flow. The CWA was established specifically to “restore and maintain the chemical, *physical*, and biological integrity of the Nation’s waters” – not solely to regulate “pollutants.”<sup>23</sup> The U.S. Supreme Court addressed this issue directly in *PUD No. 1*, stating that:

Petitioners also assert more generally that the Clean Water Act is only concerned with water ‘quality,’ and does not allow the regulation of water ‘quantity.’ This is an artificial distinction.<sup>24</sup>

The Court specifically took note of CWA Sections 101(g) and 510(2), which address state authority over the allocation of water as between users. The Court found that these provisions “do not limit the scope of water pollution controls that may be imposed on users who have

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<sup>20</sup> *PUD No. 1*, 511 U.S. 700 (1994). *PUD No. 1* established that so long as there is a discharge, the state can regulate an activity as a whole under §401. *PUD No. 1* at 711–712.

<sup>21</sup> 33 U.S.C. 1313(c)(2)(A) (emphasis added); *PUD No. 1* at 704. In addition to the uses to be protected and the criteria to protect those uses, water quality standards include an antidegradation policy to ensure that the standards are “sufficient to maintain existing beneficial uses of navigable waters, preventing their further degradation.” *PUD No. 1* at 705; 33 U.S.C. 1313(d)(4)(B); 40 CFR § 131.6. EPA regulations add that “[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.” 40 CFR §131.12.

<sup>22</sup> *PUD No. 1*, 511 U.S. at 715. *See also* 40 CFR § 131.3(b) (U.S. EPA stating that “[w]hen criteria are met, water quality will *generally* protect the designated use,” [emphasis added] indicating that numerical criteria do not always by themselves protect a designated use). Recognized beneficial uses in the Bay-Delta Estuary include, but are not limited to, agricultural supply (AGR), groundwater recharge (GWR), Water Contact Recreation (REC-1), Non-Contact Water Recreation (REC-2), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), Estuarine Habitat (EST), and Rare, Threatened, or Endangered Species (RARE).

<sup>23</sup> 33 U.S.C. § 1251(a). Emphasis added.

<sup>24</sup> *PUD No. 1*, 511 U.S. at 719. In *PUD No. 1*, the U.S. Supreme Court took up the question of whether Washington state had properly issued a CWA Section 401 certification imposing a minimum stream flow requirement to protect fish populations. The Supreme Court held that conditioning the certification on minimum stream flows was proper, as the condition was needed to enforce a designated use contained in a state water quality standard. *Id.* at 723. In reaching this decision, the court noted that the project as proposed did not comply with the designated use of “[s]almonid [and other fish] migration, rearing, spawning, and harvesting,” and so did not comply with the applicable water quality standards. *Id.* at 714.

obtained, pursuant to state law, a water allocation.”<sup>25</sup> This conclusion is supported by the “except as expressly provided in this Act” language of Section 510(2), which conditions state water authority; and by the legislative history of Section 101(g), which allows for impacts to individual water rights as a result of state action under the CWA when “prompted by legitimate and necessary water quality considerations.”<sup>26</sup> Accordingly, these CWA provisions are not impediments to California’s implementation of its CWA mandate to ensure compliance with water quality standards, *including* within the context of flows.

As noted above, in its August 2010 flow criteria report, the Water Board found that “[t]he best available science suggests that current flows are insufficient to protect public trust resources,” and that “[r]ecent Delta flows are insufficient to support native Delta fishes for today’s habitats.”<sup>27</sup> However, flow regimes proposed by the current Water Tunnels project rely on water quality (including flow) objectives that have been failing to protect Delta ecosystem and aquatic species beneficial uses for the last 15 years or more. These include: Water Right Decision 1641 (D-1641)<sup>28</sup>; the 2006 San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan; the 2009 NMFS Biological Opinion (BiOp); and the 2008 USFWS BiOp.

Further, the Water Tunnels project notably incorporates “bypass flows” that ostensibly establish the minimum amount of water that must flow downstream of the planned north Delta intake. Rather than protecting Delta flow, the Water Tunnels project reduces average annual Sacramento River flow downstream of the North Delta intakes.<sup>29</sup> Reduced flows downstream of the north Delta intakes extend all the way past Rio Vista as well.<sup>30</sup> Because it fails to put needed flows back into failing waterways, the Water Tunnels project will violate water quality standards

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<sup>25</sup> *Id.* at 720.

<sup>26</sup> *Id.* “See 3 Legislative History of the Clean Water Act of 1977 (Committee Print compiled for the Committee on Environment and Public Works by the Library of Congress), Ser. No. 95-14, p. 532 (1978) (‘The requirements [of the Act] may incidentally affect individual water rights. . . . It is not the purpose of this amendment to prohibit those incidental effects. It is the purpose of this amendment to insure that State allocation systems are not subverted and that effects on individual rights, if any, are prompted by legitimate and necessary water quality considerations’).” See also Memorandum from U.S. EPA Water and Waste Management and General Counsel to U.S. EPA Regional Administrators, “State Authority to Allocate Water Quantities – Section 101(g) of the Clean Water Act” (Nov. 7, 1978), available at: [http://water.epa.gov/scitech/swguidance/standards/upload/1999\\_11\\_03\\_standards\\_waterquantities.pdf](http://water.epa.gov/scitech/swguidance/standards/upload/1999_11_03_standards_waterquantities.pdf).

<sup>27</sup> SWRCB, 2010 Delta Flow Criteria Report, pp. 2, 5. Accessible at [http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/deltaflow/docs/final\\_rpt080310.pdf](http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt080310.pdf).

<sup>28</sup> D-1641 requires the SWP and CVP to meet flow and water quality objectives, including specific outflow requirements, an export/import ratio, spring export reductions, salinity requirements, and, in the absence of other controlling restrictions, a limit to Delta exports of 35 percent total inflow from February through June and 65 percent inflow from July through January.

<sup>29</sup> See Attachment 1 in this letter, above, and Public Draft Plan § 5.3.1.1, available at: [http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Public\\_Draft\\_BDCP\\_Chapter\\_5\\_-\\_Effects\\_Analysis.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Public_Draft_BDCP_Chapter_5_-_Effects_Analysis.sflb.ashx). See Also BDCP Draft EIR/EIS Chapter 3, *Description of Alternatives*, Table 3-17, p. 3-186.

<sup>30</sup> See RDEIR/SDEIS, 2015, Appendix B, Table B.7-30, pp. B-361 to B-362.

by failing to protect sensitive beneficial uses. These include “rare, threatened or endangered species habitat,” “estuarine habitat,” “spawning, reproduction, and/or early development,” and other sensitive beneficial uses.<sup>31</sup> Chinook salmon, Central Valley steelhead, sturgeon and lamprey all migrate and spawn in this area, with Delta smelt and longfin smelt likely spawning in the lower Sacramento River, or in hydraulically connected adjacent channels. Factoring out climate change effects, juvenile and salmon smolt survival rates through the Delta to Chipps Island decrease for each run of salmon under the flow regimes put forward by proponents of the Water Tunnels project.<sup>32</sup> The Water Tunnels Project will thus fail as a set of flow regimes that could support Section 401 certification for necessary Section 404 permits.

Actions that “reasonably protect”<sup>33</sup> rather than “protect” the beneficial use are insufficient. If multiple beneficial uses are at stake, adopted flow criteria must protect the *most sensitive* beneficial use (*i.e.*, they cannot “balance” away uses) and must be based on science.<sup>34</sup> As the state Supreme Court found, Porter-Cologne balancing provisions<sup>35</sup> that provide only “reasonable” protection “cannot authorize what federal law forbids.”<sup>36</sup> The more protective CWA water quality standard requirements take precedence over weaker Porter-Cologne language; ecosystem and species needs cannot—and must not—be balanced away.

USEPA commented last year on the Bay Delta Conservation Plan and its draft EIR/EIS that “[b]ecause the location of X2 [the estuarine habitat water quality objective] is closely tied to freshwater flow through the Delta, the proposed project would have a strong influence on this parameter, yet the Draft EIS does not analyze each alternative’s impacts on aquatic life in the context of this relationship.”<sup>37</sup> The Bay-Delta Water Quality Control Plan’s estuarine habitat water quality objective will likely be violated by the Water Tunnels Project as well. In the

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<sup>31</sup> State Water Resources Control Board, *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta*, December 13, 2006, p. 9.

<sup>32</sup> By “factoring out climate change effects,” we refer to the Water Tunnels project proponents’ preference for environmental impact comparisons between the No Action Alternative and Alternative 4A (either Scenarios H3 or H4). This comparison reflects the future migration prospects of these fish with and without the proposed Water Tunnels Project. Even by their preferred comparison of the Water Tunnels project with the No Action Alternative, juveniles and smolts have lower survival rates through the Delta to Chipps Island.

<sup>33</sup> SWRCB, “Comments on the Second Administrative Draft Environmental Impact Report/Environmental Impact Statement for the Bay Delta Conservation Plan,” p. 1 (July 05, 2013), available at: [baydeltaconservationplan.com/Libraries/Dynamic Document Library/State Water Resources Control Board Comments on BDCP EIR-EIS 7-5-2013.sflb.ashx](http://baydeltaconservationplan.com/Libraries/Dynamic%20Document%20Library/State%20Water%20Resources%20Control%20Board%20Comments%20on%20BDCP%20EIR%EIS%207-5-2013.sflb.ashx) (emphasis added).

<sup>34</sup> EPA regulations state that “criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. For waters with multiple use designations, the criteria shall support the most sensitive use.” See 40 CFR §131.11; see also 40 CFR §131.6.

<sup>35</sup> Calif. Water Code § 13000.

<sup>36</sup> *City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4th 613, 626, 108 P.3d 862 (2005) (citing the Supremacy Clause).

<sup>37</sup> USEPA, “Draft Environmental Impact Statement for the Bay Delta Conservation Plan, San Francisco Bay Delta, California (CEQ# 20130365), August 26, 2014, p. 5. Accessible at [http://www.friendsoftheriver.org/site/DocServer/8-26-14 EPA Cmmnt on BDCP.pdf?docID=9539](http://www.friendsoftheriver.org/site/DocServer/8-26-14%20EPA%20Cmmnt%20on%20BDCP.pdf?docID=9539).

RDEIR/SDEIS nor the Draft EIR/EIS there is no modeling of how changes in X2, the Delta's estuarine habitat water quality objective may affect a variety of estuarine species. X2, which measures the approximate center of the estuary's low salinity zone relative to the Golden Gate, was shown last year in BDCP modeling to migrate upstream under the Tunnels' influence relative to existing conditions and the No Action Alternative.<sup>38</sup> The modeled upstream migration of X2 means that critical habitat for estuarine species will shrink, especially relative to the No Action Alternative. Species abundance and X2 are negatively: when X2 moves further from the Golden Gate, species abundances typically decrease as the size of the Low Salinity Zone decrease (with lower flows), with few exceptions.<sup>39</sup> This apparently remains true of the RDEIR/SDEIS, in which no new modeling is conducted.

The State Water Board has indicated tentative interest in designating subsistence fishing as a beneficial use statewide, including in the Delta.<sup>40</sup> Our organizations and others would certainly welcome such a beneficial use designation in the Delta as elsewhere because protection of the most sensitive ecological and estuarine beneficial uses will also protect subsistence fishing as a beneficial use. Humans are connected to these other beneficial uses, no less so in the Bay-Delta Estuary.

The Water Tunnels Project will also violate numerous pollutant criteria mentioned above with drastic consequences for public health and vitality of the region's ecosystems and water-dependent economic sectors like tourism, recreation, agriculture, and subsistence fishing. On this score, the Water Tunnels Project will further violate water quality standards, precluding the State Water Resources Control Board from certifying the project under Clean Water Act Section 401.

In summary: implementation of the Water Tunnels project will require a CWA Section 404 permit from the Army Corps of Engineers, which it cannot receive unless the state issues a CWA Section 401 certification. The certification in turn cannot be legally issued unless the project as a whole (*i.e.*, rather than the individual discharge mandating the 404 permit) meets water quality standards, which includes meeting beneficial uses designed to protect Delta species and ecosystems. The Water Tunnels project will fail across the board; we provide more details of this failure in Attachment 5 to this letter.

***There is no defensible anti-degradation analysis.***

A cornerstone of the State Water Board and Regional Water Board's regulatory authority is the Antidegradation Policy (Resolution 68-16), which is included in the Basin Plans as an appendix. However, the Water Tunnels project Draft EIR/EIS and RDEIR/SDEIS fail to discuss or analyze constituents which will "degrade" water quality. These documents do not evaluate

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<sup>38</sup> See Figure 7, p., 66 of Environmental Water Caucus comments on Bay Delta Conservation Plan, June 11, 2014; accessible online at <http://ewccalifornia.org/reports/bdcpcomments6-11-2014-3.pdf>.

<sup>39</sup> Panel Summary Report on Workshop on Delta Outflows and Related Stressors, May 5, 2014. Accessible online at <http://deltacouncil.ca.gov/sites/default/files/documents/files/Delta-Outflows-Report-Final-2014-05-05.pdf>. This report identifies "key papers" in which the relationships of X2, Delta outflow, and species abundances are anchored.

<sup>40</sup> Email from Esther Tracy of State Water Resources Control Board, Office of Public Participation, to Andria Ventura, Clean Water Action, "State Water Resources Control Board Beneficial Uses," May 6, 2014, forwarded to Colin Bailey of Environmental Justice Coalition for Water, thence to Tim Stroshane, Environmental Water Caucus consultant. Tracy's message primarily concerns subsistence fishing by California Indian Tribes.

whether the designated beneficial use is degraded and what it means for Clean Water Act compliance.

Section 101(a) of the Clean Water Act (CWA), the basis for the antidegradation policy, states that the objective of the Act is to “restore and maintain the chemical, biological and physical integrity of the nation’s waters.” Section 303(d)(4) of the CWA carries this further, referring explicitly to the need for states to satisfy the antidegradation regulations at 40 CFR § 131.12 before taking action to lower water quality. These regulations (40 CFR § 131.12(a)) describe the federal antidegradation policy and dictate that states must adopt both a policy at least as stringent as the federal policy and implementing procedures.

The CWA requires the *full* protection of identified beneficial uses. The Federal Antidegradation Policy, as required in 40 CFR 131.12 states, “The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following: (1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.” The Delta is classified as a Tier II, “high quality,” waterbody by US EPA and the SWRCB. EPA Region 9’s guidance on implementing antidegradation policy states, “All actions that could lower water quality in Tier II waters require a determination that existing uses will be fully maintained and protected.”<sup>41</sup>

California’s antidegradation policy is described in the State Antidegradation Guidance, SWRCB Administrative Procedures Update 90-004, 2 July 1990 (“APU 90-004”) and USEPA Region IX, (“Region IX Guidance”), as well as Water Quality Order 86-17.<sup>42</sup>

California’s Antidegradation Policy (Resolution 68-16) requires that:

- Existing high quality water will be maintained until it has been demonstrated that any change will be with the maximum benefit to the people of the State.
- The change will not unreasonably affect present and anticipated beneficial uses.
- The change will not result in water quality less than prescribed in the policies.
- Any activity which produces a waste or increased volume or concentration will be required to meet waste discharge requirements using the best practicable treatment or control of the discharge necessary to assure that neither pollution nor nuisance will occur and the highest water quality with maximum benefit to the people of the state will be maintained.

While California’s Antidegradation Policy requires that, “[t]he change will not unreasonably affect present and anticipated beneficial uses and the change will not result in water quality less than prescribed in the policies,” the Federal Antidegradation Policy requires a “determination that existing uses will be fully maintained and protected.”<sup>43</sup>

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<sup>41</sup> EPA, Region 9, Guidance on Implementing the Antidegradation Provisions of 40 CFR 131.12, page 7.

<sup>42</sup> “Guidance on Implementing the Antidegradation Provisions of 40 CFR 131.12” (3 June 1987).

<sup>43</sup> Draft BDCP EIR/EIS, 2013, page 8-408.

The Water Tunnels project will reduce flows and result in poorer water quality for a number of constituents, including boron, bromide, chloride, electrical conductivity, nitrate, organic carbon, some pesticides, mercury and selenium. The Delta is currently impaired for many of the constituents that will increase under the proposed alternative. Several water quality constituents are detailed in Attachment 5 where degradation is expected should the Water Tunnels project be constructed and operated.

Even if DWR and the Bureau of Reclamation provide an adequate antidegradation analysis of the Water Tunnels project, the point remains that they cannot move forward on a 401 certification from the State Water Resources Control Board if any water quality standards are not met. The antidegradation analysis is supposed to ensure they comply with any and all water quality standards, but there is clear evidence that cannot and will not.

***Water Tunnels project operational modeling criteria scenarios prejudice potential new water quality objectives for the Bay-Delta Estuary from the State Water Resources Control Board.***

A large but wholly implicit assumption through the Water Tunnels project and its EIR/EIS is that any one of these alternatives would require wholesale revision to how water quality is regulated in the Bay Delta estuary, in order for the Water Tunnels project to move forward. The setting sections of Chapter 5, 6, 7, and 8 (comprising water supply, surface water, groundwater, and water quality) contain no descriptions of the existing water quality objectives as they apply to flow and operational actions by the state and federal water facilities in the Delta. The Draft EIR/EIS Executive Summary last year only hints at this matter, titling one section “New Rules for North Delta Diversions,” but does not address this matter, making no mention of the regulatory regime change that would apparently be required of the State Water Board.<sup>44</sup> This year, the RDEIR/SDEIS announces “proposed new flow criteria” for north and south Delta SWP and CVP export facilities, and the proposed new head of Old River operable barrier.<sup>45</sup>

Such changes to Delta flows and hydrodynamics must be evaluated through public review before the State Water Resources Control Board, the only state body authorized to change water quality standards. We are concerned that the Tunnels proponents hope to circumvent the process by making Tunnels operational criteria seem inevitable and necessary; they are neither, and must be the subject of careful and critical review in the Board’s Bay-Delta Plan update process, *before* the Water Tunnels Project receives permit approvals for new diversions. Put simply: water quality policy must come before plumbing decisions are made. What is best for the Bay-Delta Estuary, and the Delta’s economy and communities comes first.<sup>46</sup>

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<sup>44</sup> Bay Delta Conservation Plan, Draft EIR/EIS, November 2013, *Executive Summary*, Section ES.9.1.4, “New Rules for North Delta Diversions,” pp. ES-52 to ES-53.

<sup>45</sup> RDEIR/SDEIS, Section 4.1, pp. 4.1-11 through 4.1-13.

<sup>46</sup> This stance is also consistent with the Delta Protection Act of 1959.

Further complicating this picture is the role and regulation by SWRCB of “Real-Time Operations [RTOs].”<sup>47</sup> Our organizations are not opposed to RTOs in principle. Water Tunnels proponents acknowledge that RTOs cannot be modeled.<sup>48</sup> Not only can they not be modeled, RTOs themselves will be difficult, if not impossible to regulate and monitor by state authorities when the most sensitive beneficial uses have admittedly uncertain threshold conditions that should not be exceeded.

But the Water Tunnels proponents push use of RTOs as “silver bullets” for gaps in mitigation that ought to protect listed fish species but which come up short. This implies that individual experts will be given broad discretion over project operations to make “short-term adjustments” — possibly to the usurpation of established laws and regulations in the name of optimizing or maximizing Delta exports relative to Delta inflows, water quality objectives, and Delta outflow, and potentially contrary to the SWRCB’s role as the sole body with authority to change and enforce water quality objectives.

For example, real-time operations and modeling were employed in 2014 and 2015 along the upper Sacramento River by the Bureau of Reclamation to manage and control temperature conditions, but failed to prevent large scale losses of winter-run and spring-run Chinook salmon while SWRCB staff and officials could only stand by helplessly. Real-time operations can create situations in which project operators can behave as they see fit, and apologize later. That is

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<sup>47</sup> Real-time operational decisions “are expected to be needed during at least some part of the year at the Head of Old River gate and the north and south Delta diversion facilities.” *RDEIR/SDEIS*, p. 4.1-13, lines 17-18. Real-time operations are defined in Conservation Measure 1 of the Bay Delta Conservation Plan, November 2013, Section 3.4.1.4.5, *Real-Time Operational Decision-Making Process*, p. 3.4-26, lines 14-18: “[R]eal-time operational decision-making process (real-time operations [RTOs]) allows for short-term adjustments in operations within the range of CM1 [that is, Water Tunnels operating] criteria..., in order to maximize water supply for SWP and CVP relative to the [BDCP] Annual Operating Plan and its quarterly updates subject to providing the necessary protections for covered species.” The Water Tunnels project’s documents expect retention of BDCP’s use of RTO teams focused on each Delta facility and coordinating with each other. We note that the *RDEIR/SDEIS* does not specify that post hoc descriptions of RTOs would be made public through such an Annual Operating Plan.

<sup>48</sup> This is most explicitly noted in BDCP Appendix 5.C, Attachment 5C.A, *CALSIM II and DSM2 Modeling Results for the Evaluated Starting Operations Scenarios*, pp. 5C.A-157 to 162. Old and Middle River flow real-time operations are an example, p. 5C.A-157, lines 31-44. “The magnitude of the export restrictions [relating to Old and Middle River flows] cannot be simulated accurately with CALSIM because the limits will be adaptively specified by the USFWS smelt working group, based on real-time monitoring of fish and turbidity and temperature conditions. The assumed restrictions provide a representative simulation compared to D-1641 conditions without any OMR restrictions.” Moreover, real-time operations pose dramatic uncertainties for South Delta export operations with real-time adaptive operations in place. “If the least restrictive OMR flow of -5,000 cfs were allowed for 6 months (January-June), a maximum of 1,800 taf per year could be pumped (assuming the San Joaquin River diversion to Old River satisfied the 35% of the net Delta depletion that is south of the OMR flow stations. But because of the 1,500 cfs limit on exports in April and May (2009 NMFS BiOp), the maximum exports would be 1,400 taf per year. If the OMR restriction was reduced to -2,500 cfs for the 6 months (with 1,500 cfs in April and May), a total of 780 taf could be pumped from the South Delta. This is a very dramatic reduction for the CVP and SWP exports which historically have exported about half (45%) of the total exports during these months. This uncertainty in the potential south Delta exports is a consequence of the adaptive management framework for the 2008 USFWS BiOp and 2009 NMFS BiOp actions regarding OMR flow.” Since BDCP contemplates real-time operations in several other Delta and Yolo Bypass locations, uncertainties will compound for planning operations, exports, and outflows.

unacceptable now that listed fish species are so close to extinction. We doubt that real-time operations will have sufficient margins of error to prevent catastrophe.

Instead, adjustments to water quality flow objectives should err on the side of precaution. Designated beneficial uses should be protected as required under the CWA and its implementing regulations. The most sensitive of them will be endangered further by Water Tunnels project operating criteria that reduce and reverse Sacramento River flows, and bring more polluted San Joaquin River water to Delta channels. The precautionary principle must come to the fore in state and federal fisheries and water project operations management.<sup>49</sup> *Sound policy preventing extinction and restoring and enhancing the integrity of Bay-Delta Estuary waters must come before new plumbing and south of Delta export deliveries.*

This is not a call to end south of Delta exports, but an appeal to state and federal officials that they realistically assess how to protect fully all beneficial uses under the CWA before reasonable quantities of Delta exports can be determined and permitted. The Water Tunnels project as proposed would put plumbing and exports first, which is neither an acceptable, lawful nor reasonable prioritization.

***The Proposed Project is not the Least Environmentally Damaging Practicable Alternative (LEDPA).***

Finally, the Tunnels Project also fails to meet another Section 404 requirement, “[t]he requirement [under CWA § 404(b)(1)...that the project proponent must demonstrate that the project is the [Least Environmentally Damaging Practicable Alternative] LEDPA.”<sup>50</sup> “A proposed action is not the LEDPA simply because a federal agency is a partner and chooses that proposed action as its preferred alternative.”<sup>51</sup> The Tunnels Project appears to be the *most* environmentally damaging alternative possible. It most definitely is not the least damaging, and therefore, it is not the LEDPA.

Over two years ago, EPA pointed out that “Chapter 8 of the [Administrative Draft EIS] ADEIS indicates that, as proposed, all project alternatives of the BDCP would result in adverse effects to one or more beneficial uses within the affected water bodies.”<sup>52</sup> EPA also explained that “The DEIS should sharply distinguish between alternatives and evaluate their comparative merits, consistent with 40 CFR 1502.14(b).”<sup>53</sup>

Over one year ago, EPA explained to state agencies that:

Other reasonable alternatives could be developed by incorporating a suite of measures, including water conservation, levee maintenance, and decreased reliance on the Delta. Such alternatives would be consistent with the purpose and need for the project, as well

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<sup>49</sup> Peter Montague, accessed online 11 September 2015 at [http://www.precaution.org/lib/pp\\_def.htm](http://www.precaution.org/lib/pp_def.htm).

<sup>50</sup> USEPA, Preliminary Administrative Draft Comments for the Bay Delta Conservation Plan DEIR/S p. 2, April 26, 2012.

<sup>51</sup> EPA, BDCP DEIS Corrections and Additional Editorial Recommendations, p. 1, August 27, 2014.

<sup>52</sup> EPA’s Comments on BDCP ADEIS, p. 3, July 3, 2013.

<sup>53</sup> *Id.* p. 2.

as with the California Bay-Delta Memorandum of Understanding among Federal Agencies and the Delta Reform Act of 2009.<sup>54</sup>

The “alternatives” of the Water Tunnels project presented in the Draft EIR/EIS and the RDEIR/SDEIS are nothing more than peas out of the same pod. As we explained in our joint letter of July 22, 2015, there has been a complete failure on the part of the Water Tunnels proponents to develop and consider a reasonable range of alternatives. That failure also includes refusal to consider and develop the Environmental Water Caucus *Responsible Exports Plan*, updated to *A Sustainable Water Plan for California*, that the Caucus provided to Water Tunnels proponents on a silver platter almost 3 years ago—as well as failure to consider and develop “The ‘Portfolio Approach’ developed by a diverse set of stakeholders . . . one attempt to place Delta water management into the larger context of facilities investments and integrated operations.”<sup>55</sup>

There is more. As we explained in our joint letter of September 9, 2015 (pp. 9-10), there has been a complete failure on the part of Water Tunnels proponents to obtain and present the Reasonable and Prudent Alternatives (RPA) required under the Endangered Species Act.

Under the NEPA Regulations, “This [alternatives] section is the heart of the environmental impact statement.” The alternatives section should “sharply” define issues and provide a clear basis for choice among options by the decision-maker and the public. 40 C.F.R. § 1502.14. Moreover, if “a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion.”<sup>56</sup>

Operation of the Water Tunnels would have enormous adverse environmental impacts causing and worsening violations of water quality standards. We understand that the exporters and their supporters wish to take enormous quantities of water away from the Delta upstream. But we have a government of laws, not of men and women. It is time either to drop this horrendously damaging and expensive project or follow the law whether certain interests want to do so or not. If the project is not dropped, it is time to prepare a new Draft EIR/EIS for public and decision-maker review that presents some actual—alternatives—that would not include the Water Tunnels and that would finally begin to increase flows through the Delta. The range of reasonable alternatives required by NEPA in the new Draft EIR/EIS must include the Reasonable and Prudent Alternatives (RPA) produced pursuant to the Endangered Species Act and the Least Environmentally Damaging Practicable Alternative (LEDPA) pursuant to the Clean Water Act.

### *Conclusion*

The long-term decline of the San Francisco Bay Delta Estuary is a story of our lost connection with nature. Once a pristine ecosystem and the West Coast’s largest estuary—a rich, biodiverse habitat of unspoiled grasslands, riparian forests, willow thickets, and other features, with an abundance of native fish species such as salmon—the Delta has suffered tremendously from the misguided belief that nature can be endlessly exploited and degraded. As a first step

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<sup>54</sup> EPA Detailed Comments on the Draft Environmental Impact Statement for the Bay Delta Conservation Plan; August 26, 2014, p. 13.

<sup>55</sup> *Id.*

<sup>56</sup> 40 C.F.R. § 1502.9(a).

towards recovery, we must enhance flow, which is essential for aquatic species populations, the larger health of the Delta, and Delta communities.

The Water Tunnels project instead reinforces the objective of increasing Delta exports, while reducing Delta outflow and San Francisco Bay inflow. As such, it fails to achieve its purpose of conserving the Delta ecosystem and recovering threatened and endangered species. The Water Tunnels project also will violate the CWA, by harming designated beneficial uses of water (especially the most sensitive uses like migrating and spawning rare fish) and violating pollutant numeric criteria. The Water Tunnels will lead to the degradation of water for human use by millions in the region of the San Francisco Bay-Delta Estuary.

Fortunately, we can still restore and enhance the integrity and health of the Bay-Delta Estuary by adopting (at a minimum) sufficient flows to support healthy fish species and Delta habitats. Moreover, the time is overdue to establish a comprehensive instream water rights program that ensures the longevity of the Delta ecosystem and species, and serves as a model for the state as a whole.

Should you have any questions, please contact Tim Stroshane or Barbara Barrigan-Parrilla, Restore the Delta, 209-475-9550; Linda Sheehan, Executive Director, Earth Law Center, (650) 877-2710; and Robert Wright, Senior Counsel, Friends of the River at (916) 442-3155 ext. 207 or [bwright@friendsoftheriver.org](mailto:bwright@friendsoftheriver.org).

Sincerely,

/s/ Barbara Barrigan-Parilla  
Executive Director  
Restore the Delta

/s/ E. Robert Wright  
Senior Counsel  
Friends of the River

/s/ Linda Sheehan  
Executive Director  
Earth Law Center

/s/ Bill Jennings  
Executive Director  
California Sportfishing Protection Alliance

/s/ Carolee Krieger  
Executive Director  
California Water Impact Network

/s/ Chelsea Tu  
Staff Attorney  
Center for Biological Diversity

/s/ Conner Everts  
Co-Facilitator  
Environmental Water Caucus  
Southern California Watershed Alliance

Attachments

**Additional Addressees, all via email:**

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### Attachment 1 Modeled Flow Reductions below the North Delta Intakes on the Lower Sacramento River

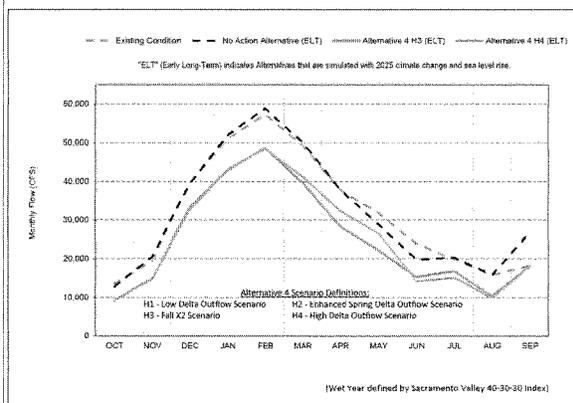


Figure 4.3.2-7  
Sacramento River Flow downstream of North Delta Intakes for Alternative 4A, Average Wet Years

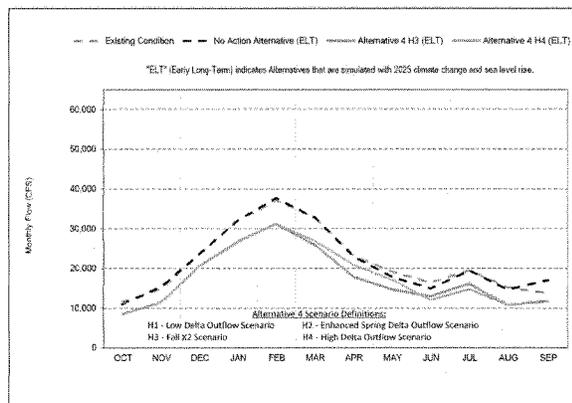


Figure 4.3.2-8  
Sacramento River Flow downstream of North Delta Intakes for Alternative 4A, Long-Term Average

Source: Bay Delta Conservation Plan/California Water Fix, Recirculated Draft EIR/Supplemental Draft EIS, July 2015.

#### Monthly Long-Term Average Estimates of Flow for Lower Sacramento River Downstream of North Delta Intakes Interpolated from Figure 4.3.2-8

	Existing Condition	No Action Alternative	Alt 4A - Operational Scenario H3	Alt 4A - Operational Scenario H4	Percent Change from EC to H3	Percent Change from EC to H4	Percent Change from NAA to H3	Percent Change from NAA to H4
October	11,667	11,333	8,667	8,667	-26%	-26%	-24%	-24%
November	15,333	16,000	11,667	11,667	-24%	-24%	-27%	-27%
December	23,333	23,333	20,667	20,667	-11%	-11%	-11%	-11%
January	36,000	36,000	25,667	25,667	-29%	-29%	-29%	-29%
February	37,000	37,667	31,333	31,333	-15%	-15%	-17%	-17%
March	33,000	33,000	26,333	27,333	-20%	-17%	-20%	-17%
April	23,333	23,667	14,667	21,000	-37%	-10%	-38%	-11%
May	19,000	18,000	14,667	17,000	-23%	-11%	-19%	-6%
June	16,667	15,000	13,000	12,000	-22%	-28%	-13%	-20%
July	19,333	19,333	16,000	14,667	-17%	-24%	-17%	-24%
August	15,333	15,000	11,000	11,000	-28%	-28%	-27%	-27%
September	14,000	17,000	11,667	11,667	-17%	-17%	-31%	-31%
Average	22,000	22,111	17,111	17,722	-22%	-20%	-23%	-20%

**Monthly Long-Term Average Estimates of Flow for Lower Sacramento River Downstream of North Delta Intakes  
Interpolated from Figure 4.3.2-8**

<b>Existing Conditions</b>	<b>No Action Alternative</b>	<b>Alt 4A - Operational Scenario H3</b>	<b>Alt 4A - Operational Scenario H4</b>	<b>Percent Change from EC to H3</b>	<b>Percent Change from EC to H4</b>	<b>Percent Change from NAA to H3</b>	<b>Percent Change from NAA to H4</b>
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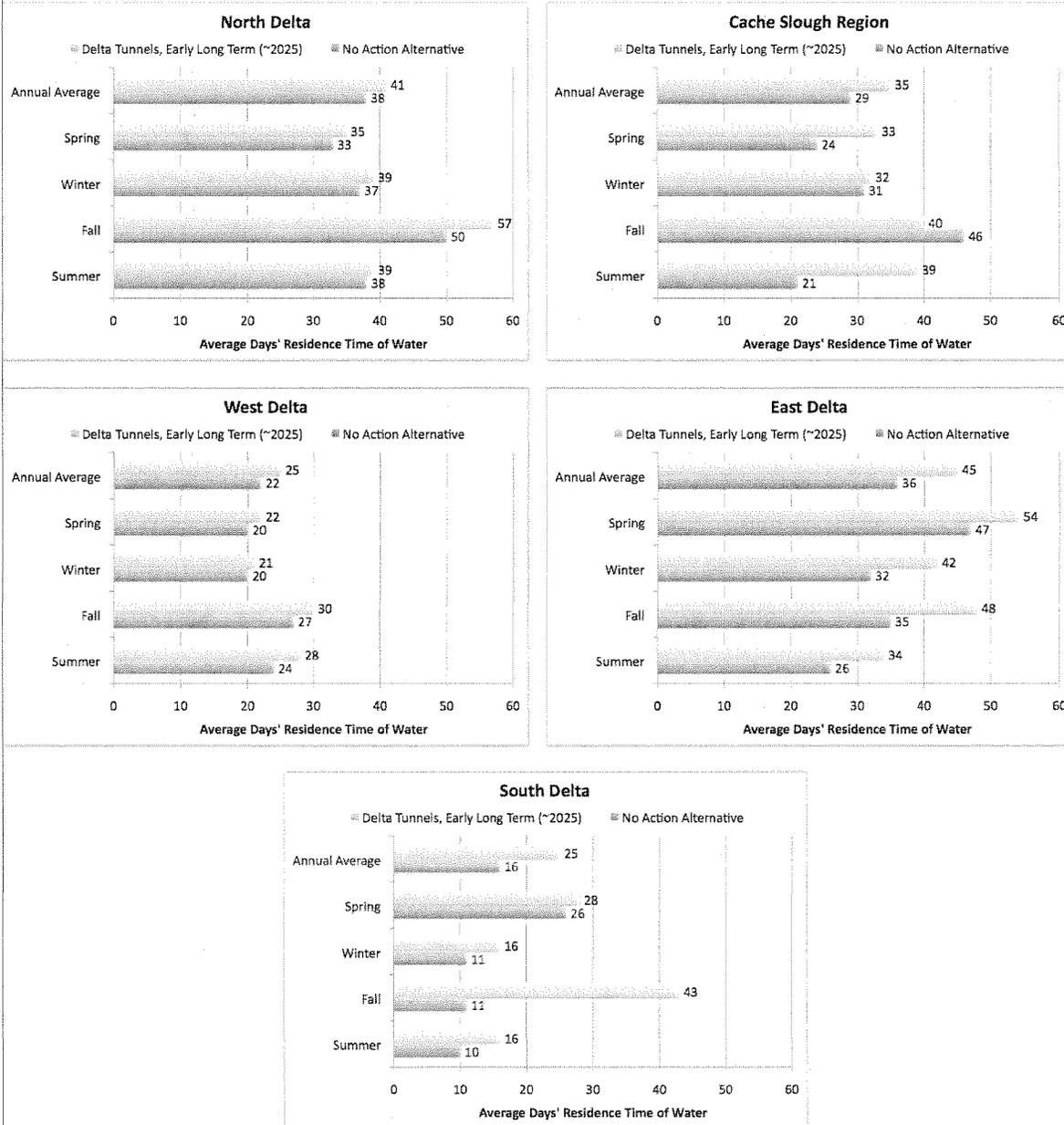
Source: Bay Delta Conservation Plan/California Water Fix Recirculated Draft EIR/EIS, Section 4.3, Figure 4.3.2-8; Restore the Delta.

**Monthly Wet Year Average Estimates of Flow for Lower Sacramento River Downstream of North Delta Intakes  
Interpolated from Figure 4.3.2-7**

	<b>Existing Conditions</b>	<b>No Action Alternative</b>	<b>Alt 4A - Operational Scenario H3</b>	<b>Alt 4A - Operational Scenario H4</b>	<b>Percent Change from EC to H3</b>	<b>Percent Change from EC to H4</b>	<b>Percent Change from NAA to H3</b>	<b>Percent Change from NAA to H4</b>
October	13,333	12,667	9,000	9,000	-33%	-33%	-29%	-29%
November	20,000	21,000	14,667	14,667	-27%	-27%	-30%	-30%
December	40,000	40,000	33,333	34,000	-17%	-15%	-17%	-15%
January	51,333	52,000	42,667	43,333	-17%	-16%	-18%	-17%
February	56,667	55,333	48,000	48,000	-15%	-15%	-13%	-13%
March	49,333	50,000	39,333	41,333	-20%	-16%	-21%	-17%
April	38,333	38,333	28,667	32,667	-25%	-15%	-25%	-15%
May	32,000	28,667	22,000	26,667	-31%	-17%	-23%	-7%
June	24,000	20,000	14,667	14,000	-39%	-42%	-27%	-30%
July	20,000	20,333	16,667	15,000	-17%	-25%	-18%	-26%
August	16,000	16,000	10,667	10,000	-33%	-38%	-33%	-38%
September	18,000	25,333	18,000	18,000	0%	0%	-29%	-29%
Average	31,583	31,639	24,806	25,556	-23%	-21%	-24%	-22%

Source: Bay Delta Conservation Plan/California Water Fix Recirculated Draft EIR/EIS, Section 4.3, Figure 4.3.2-7; Restore the Delta.

## Attachment 2 Average Residence Time of Water in Delta Regions, Alternative 4 (and 4A) and No Action Alternative, 2015 Analysis



Source: Bay Delta Conservation Plan RDEIR/SDEIS, 2015, Table 8-60a, p. 8-82.

Reducing flows in the Sacramento River is not a “waterfix,” certainly not for the Bay-Delta Estuary. This will increase residence time of water in the Bay-Delta Estuary relative to current conditions and to a future without the Tunnels; salinity violations will increase with the Water Tunnels Project as well.<sup>57</sup> (See Attachments 2 and 3.) DWR and its partners opted not to model residence time behavior for Alternative 4A and the other “California WaterFix”

<sup>57</sup> RDEIR/SDEIS, Section 4.3.4, p. 4.3.4-67, lines 4-12.

alternatives (2D and 5A). However, the water source “fingerprinting” analyses in both last year’s and this year’s modeling appendices show replacement of good quality Sacramento River water with lower-flow and poorer quality San Joaquin River water, so it is reasonable, in the absence of more definitive modeling, that relative to existing conditions residence times will increase with the Tunnels project under both Alternatives 4 and 4A. This is borne out in our analysis of criteria pollutants in Attachment 5.

The lower-flowing and more polluted San Joaquin River will make up greater fractions of water flowing into the western Delta, Franks Tract, and at Contra Costa Water District’s Rock Slough intakes.<sup>58</sup> Meanwhile, better quality Sacramento River water diverted into the Tunnels will improve state and federal export water quality, making Delta water quality elsewhere the poorer.<sup>59</sup>

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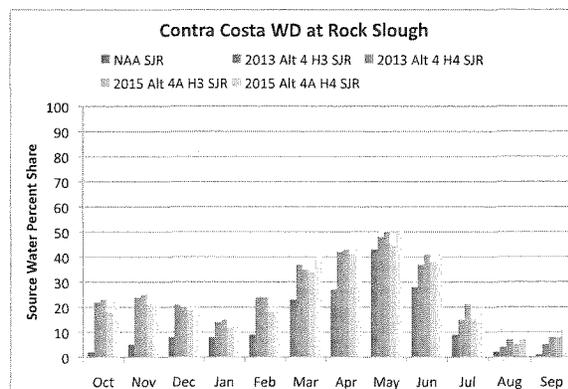
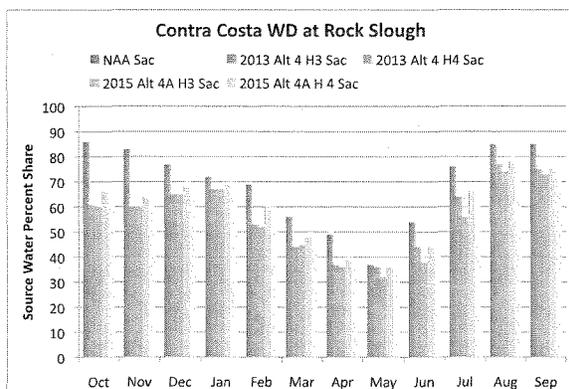
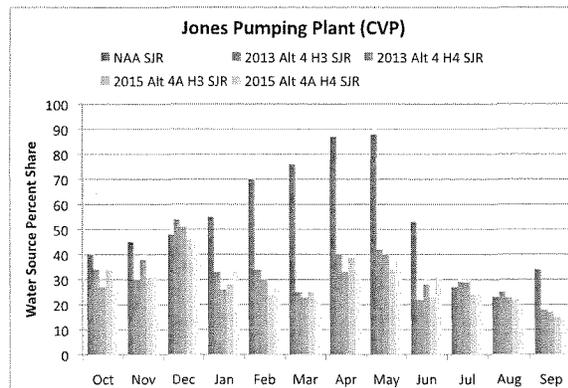
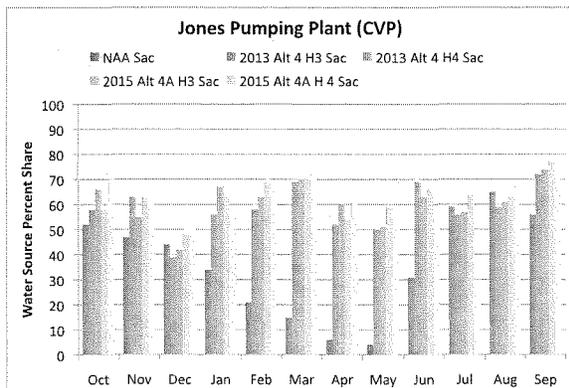
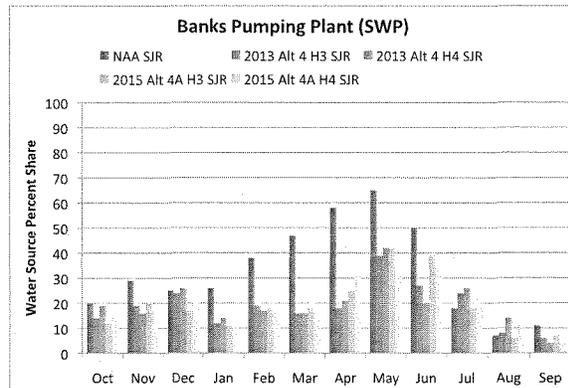
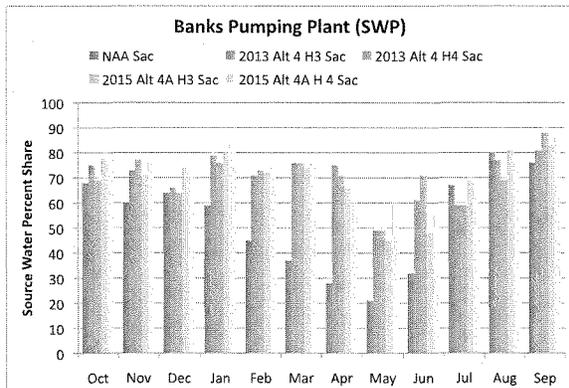
<sup>58</sup> This reasoning is confirmed by source-water fingerprint modeling provided in both the 2013 Draft EIR/EIS and the 2015 RDEIR/SDEIS. The source water fingerprint modeling results are found in Bay Delta Conservation Plan, Draft EIR/EIS/ November 2013, Appendix 3D, pp. 147-168, 8D-171 to 8D-192; and in Bay Delta Conservation Plan, Recirculated Draft EIR/Supplemental Draft EIS, Appendix B, pp. B-191 to B-256.

<sup>59</sup> Bay Delta Conservation Plan Draft EIR/EIS, November 2013, Appendix 8D (figures for Alternative 4, Scenarios H3 and H4), 2013; BDCP/California WaterFix, Recirculated Draft EIR/Supplemental Draft EIS, Appendix B, Section B.4.2 (figures for No Action Alternative, Alternative 4A, Scenarios H3 and H4), 2015; analyzed by Restore the Delta.

**Attachment 2 (cont.)**  
**Share of Delta Location River Sources from "Fingerprint" Modeling Results**  
**No Action Alternative, 2013 BDCP Conservation Measure 1**  
**and 2015 Tunnels Project**

**Sacramento River**

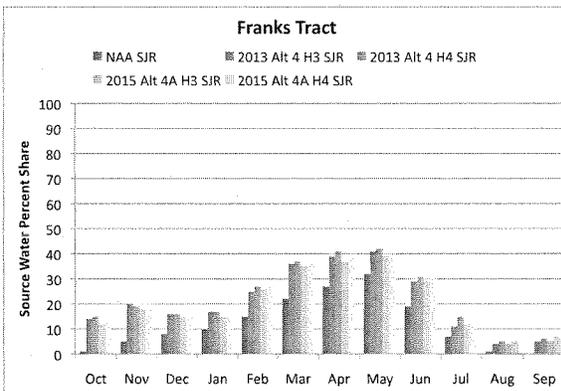
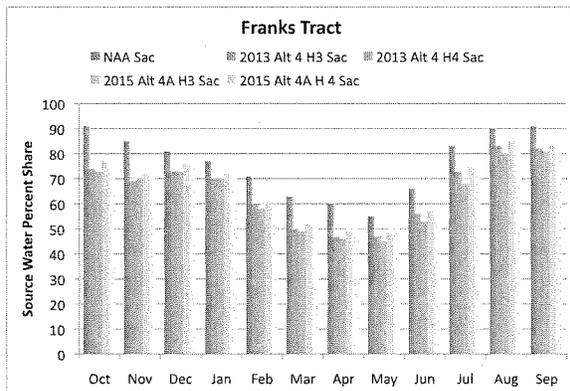
**San Joaquin River**



**Attachment 2 (cont.)**  
**Share of Delta Location River Sources from "Fingerprint" Modeling Results**  
**No Action Alternative, 2013 BDCP Conservation Measure 1**  
**and 2015 Tunnels Project**

**Sacramento River**

**San Joaquin River**



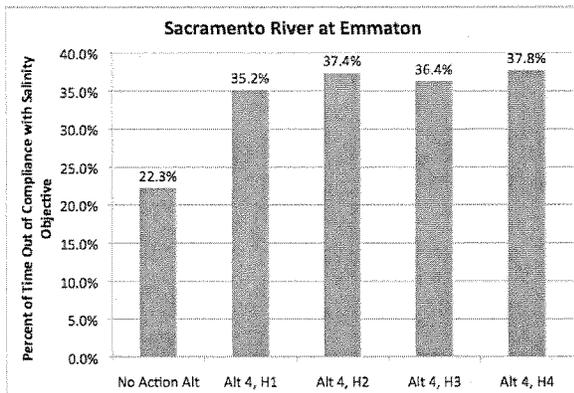
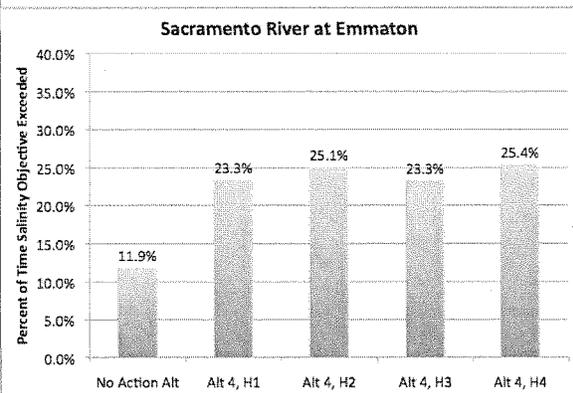
Sources: BDCP Draft EIR/EIS, Appendix 8D (figures for Alternative 4, Scenarios H3 and H4); BDCP/California WaterFix, Recirculated Draft EIR/Supplemental Draft EIS, Appendix B, Section B.4.2 (figures for No Action Alternative, Alternative 4A, Scenarios H3 and H4); Restore the Delta.

**Attachment 3  
Projected Salinity Effects by 2060  
of the Tunnels Project/Bay Delta Conservation Plan  
Percentage of Time Salinity Exceedances and Violations Would Occur**

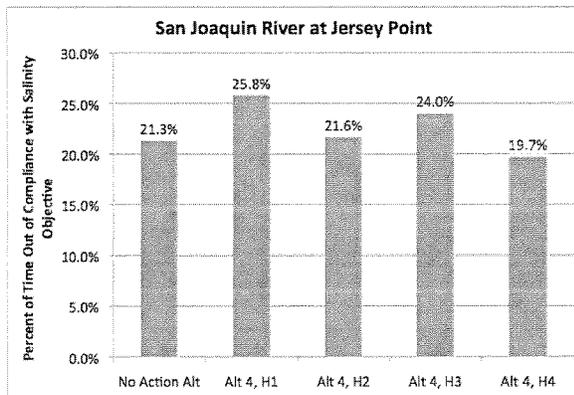
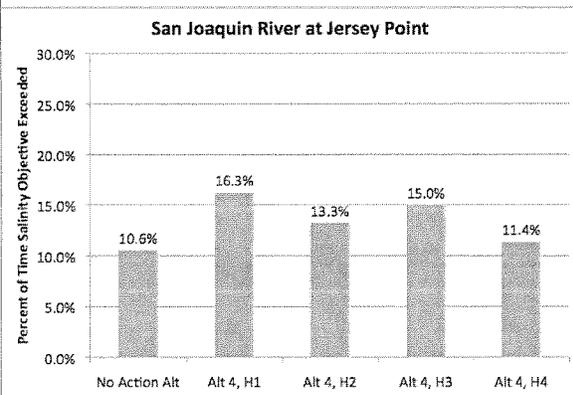
**Exceeding Water Quality Objectives**

**Out of Compliance with Water Quality Objectives**

**Delta Agricultural Beneficial Use Water Quality Objectives**



- Sacramento River at Emmaton:** Exceedances increase over the No Action Alternative by nearly to over 100 percent of the time in the Alt 4 scenarios, while noncompliance with the objective increases by over 50 percent of the time over the No Action Alternative.

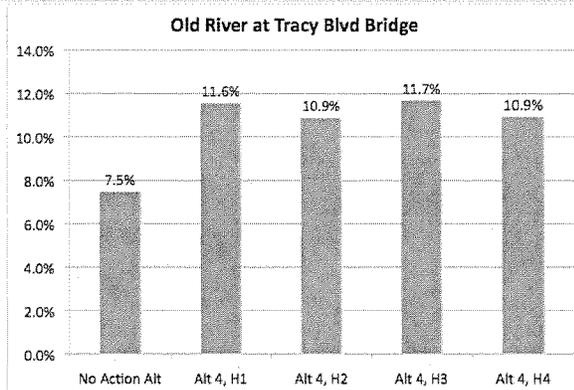
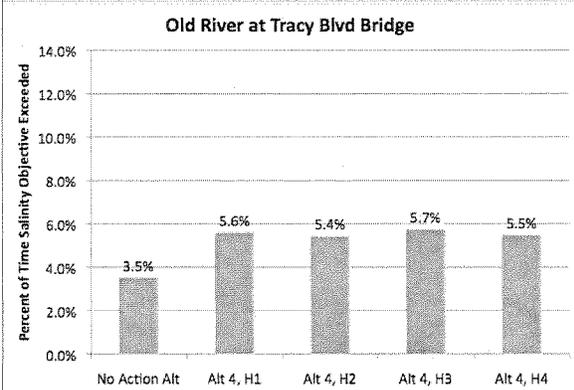


- San Joaquin River at Jersey Point:** exceedances increase over the No Action Alt by nearly 15 to 80 percent, while non compliance with the objective increases similarly, and decreases slightly in the High Outflow Scenario (where both Spring and Fall X2 apply).

### Attachment 3 Projected Salinity Effects by 2060 of the Tunnels Project/Bay Delta Conservation Plan Percentage of Time Salinity Exceedances and Violations Would Occur

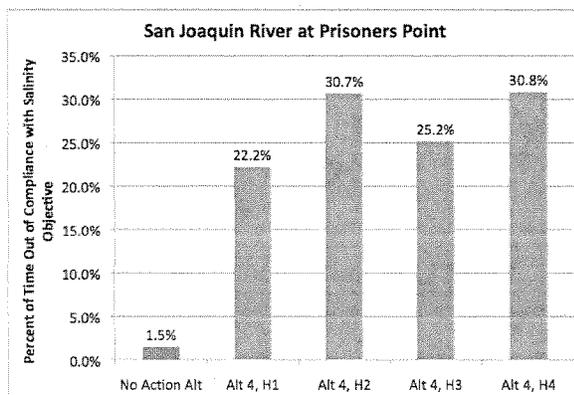
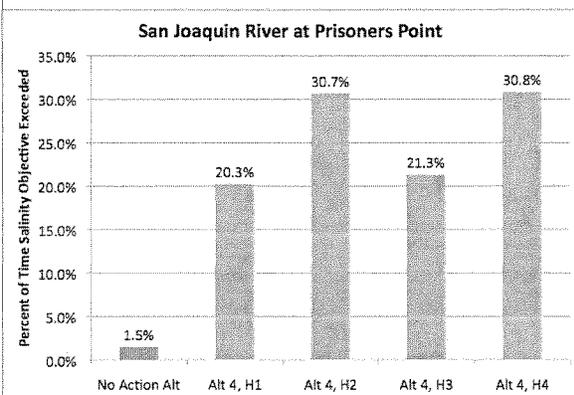
#### Exceeding Water Quality Objectives

#### Out of Compliance with Water Quality Objectives



- Old River at Tracy Blvd Bridge:** Exceedances increase by about two-thirds typically over the No Action Alternative. Noncompliance with the objective would increase by one-third to 40 percent. These percents are lower because as shown above (Table 2) the existing rate of violations is already high.

#### Delta Fish and Wildlife Water Quality Objective



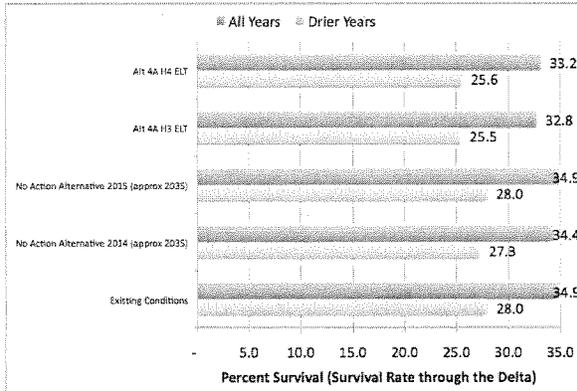
- San Joaquin River at Prisoners Point:** The percent of time exceedances would occur increases sharply — 1200 to 1900 percent increase in exceedances and a similar similar range for noncompliance. This is a fish and wildlife-related salinity objective, while the other three are agricultural beneficial use salinity objectives.

Source: Bay Delta Conservation Plan EIR/EIS, Appendix 8H, *Electrical Conductivity*, Table EC-4, p. 8H-5.

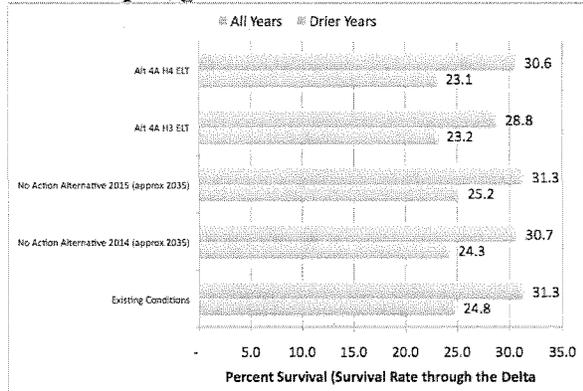
Note: Percentage of time is based on a 16-year hydrology modeled using DSM2 in Appendix 8H. Being “out of compliance” is the number of days that the 30-day running average at the monitoring site registers violations of the salinity objective. “Exceeding Water Quality Objective” refers to the number of days that the monitoring equipment actually registers salinity exceeding the threshold level the objective.<sup>224</sup>

**Attachment 4  
Through-Delta Survival Rates of Emigrating Juvenile Salmon Races  
Under Alternative 4A (“California WaterFix”)**

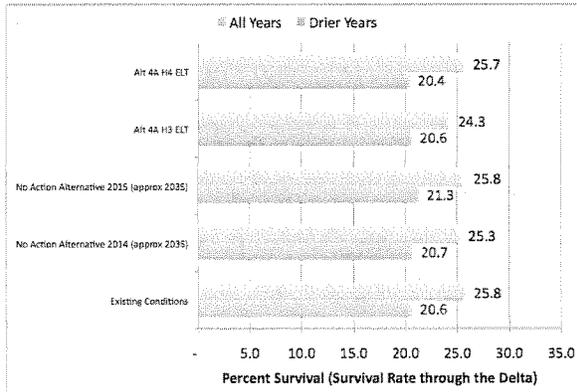
**Winter Run Chinook Salmon**



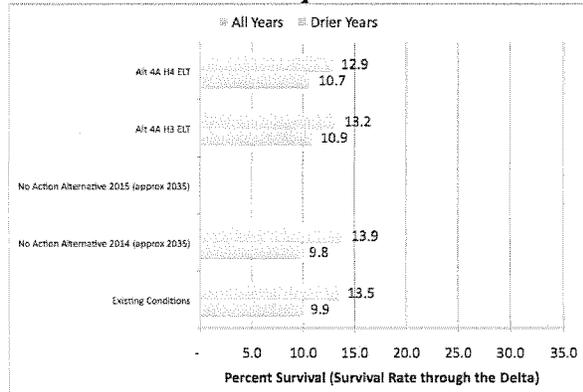
**Spring-Run Chinook Salmon**



**Fall Run Chinook Salmon  
- Sacramento River**



**Fall Run Chinook Salmon  
- San Joaquin River**



Source: Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, 2015, Tables 11-4A-23, -51, and -74; Environmental Water Caucus.

**Attachment 5**  
**Water Quality Constituents for which “California WaterFix”**  
**Would Violate Designated Beneficial Uses and/or Numeric Criteria**

**Boron**

Although period average concentrations decrease with Tunnels operations (except for Sacramento River at Emmaton and Contra Costa Water District’s Pumping Plant No. 1), agricultural (that is, crop sensitivity) threshold of 500 micrograms per liter ( $\mu\text{g/L}$ ) would see exceedances a substantial percentage of the time at San Joaquin River at Antioch and Sacramento River at Mallard Island.<sup>60</sup> The Tunnels Project will increase boron concentrations throughout the year at the south fork of the Mokelumne River, as well as at Franks Tract and Old River at Rock Slough, relative to both existing conditions and No Action Alternative.<sup>61</sup> In the western Delta, boron concentrations increase with Tunnels operation relative to existing conditions and No Action Alternative between February and September, most months of the year. Finally, boron concentrations increase at the Contra Costa Water District’s Pumping Plant No. 1, while boron concentrations decrease the North Bay Aqueduct intakes at Barker Slough and at Banks and Jones pumping plants of the state and federal water projects.

**Bromide**

For both human health and aquatic life criteria, the Tunnels project would increase the frequency of criteria violations in the interior and western Delta, but would decrease bromide violations 25 to 305 percent of the time at Banks and Jones pumping plants. Western Delta bromide concentrations are a problem for Antioch diversions as well. One method of evaluating the Tunnels Project’s bromide concentrations suggests that wet years may see increases rather than decreases.<sup>62</sup>

**Chloride**

The Mokelumne River south fork at Staten Island sees significant increases in chloride concentrations all year, every year. This is closely influenced by reduced flow through Georgiana Slough downstream of the north Delta intakes. Other interior and western Delta areas will see increased chloride concentrations relative to both existing conditions and No Action Alternative by the Tunnels during March through June (for interior locations) and March through August for Sacramento River at Emmaton, San Joaquin River at Antioch and Sacramento River at Mallard Island.<sup>63</sup>

**Salinity**

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<sup>60</sup> RDEIR/SDEIS, Appendix B, Table Bo-3, p. B-71.

<sup>61</sup> RDEIR/SDEIS, Appendix B, Table Bo-4 and Bo-5, pp. B-73 and B-74.

<sup>62</sup> RDEIR/SDEIS, Appendix B, Table Br-1 and Table Br-2, pp. B-84, and Tables Br-5 and Br-6, p. B-87.

<sup>63</sup> RDEIR/SDEIS, Appendix B, Tables Cl-6 through Cl-9 for two estimation methods and the two operational scenarios (H3 and H4), pp. B-93 and B-96.

The “California WaterFix” Tunnels will more than triple the number of spikes in excess of salinity objectives along the Sacramento River downstream of the Tunnels, and along the San Joaquin River at Prisoners Point. Outright violations of salinity objectives are expected to more than double with the Tunnels in place.<sup>64</sup> These violations will degrade water quality for Delta agriculture and for fish and wildlife beneficial uses. This means that the State Water Resources Control Board cannot issue a 401 certification regardless of whether it has adequately assessed the project’s propensity to degrade water quality.

Along the lower Sacramento River, salinity violations will more than double, and will occur about a quarter of the time that salinity objectives are in effect, up from about 11 percent of the time now and with the “California WaterFix” Tunnels in place. These conditions will worsen relative to current and future conditions between May and September, especially in drought years (which are expected to increase in frequency). Interior Delta salinity will also worsen between March and September (such as along the South Mokelumne River and at San Andreas Landing on the San Joaquin), as well as between February and June at Prisoners Point along the San Joaquin.<sup>65</sup>

The Tunnels will be the opposite of a “WaterFix” for Suisun Marsh. “California WaterFix” modeling results show that every month’s average salinity will increase about 56 percent over present conditions and about 60 percent over future conditions in the Beldon Landing area, 28 percent over present conditions and 27 percent over future conditions near Sunrise Duck Club, and 27 percent over present conditions and 26 percent over future conditions along Suisun Slough near Volanti Slough.<sup>66</sup> This altered salinity regime will result in less habitat for fish and other aquatic species native to the Bay-Delta Estuary, as well as affect agricultural soils and vegetation in Suisun Marsh.

### **Nitrates**

Tunnels Project modeling results indicate increases of nitrates relative to the No Action Alternative of 19 to 34 percent for interior Delta locations in all years (except for San Joaquin River at Buckley Cove near Stockton). Similar modeling results are shown for the western Delta as well, 16 to 30 percent increases in salinity. And Contra Costa Water District’s Pumping Plant No. 1 is projected to see a 25 percent increase in nitrates. This would likely result in significant increases in water treatment costs for the District. In all of these locations the monthly period average changes were almost all increases in the range of 10 to 30 percent. As with other pollutants, nitrate concentrations are expected in Tunnels modeling results to decrease significantly at Barker Slough, Jones and Banks.<sup>67</sup>

### **Harmful Algal Blooms**

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<sup>64</sup> RDEIR/SDEIS, Appendix B, Table EC-1, p. B-129. “Spikes” here means daily exceedances of a salinity objective, while compliance with objectives is determined by comparing multi-day running averages with an objective. When the running average is exceeded, a violation is then deemed to occur by regulators.

<sup>65</sup> RDEIR/SDEIS, Appendix B, Tables EC-8A and EC-8B, pp. B-134 to B-135.

<sup>66</sup> RDEIR/SDEIS, Appendix B, Tables EC-5, EC-6, and EC-7, pp. B-131 to B-132.

<sup>67</sup> RDEIR/SDEIS, Appendix B, Tables N-4 and N-5, pp. B-162 and B-163.

Algae occur naturally in all fresh and marine water environments. Most species are harmless under normal circumstances, but some “cyanobacteria” (also known as “blue-green algae”) which use photosynthesis can “bloom” or undergo a rapid population boom during periods of slack flow, nutrient pollution conditions (such as from nitrates, nitrogen and phosphorus), and rising temperatures. Their sheer biomass can cause, according to the USEPA, a dramatic reduction or complete consumption of all dissolved oxygen in the water, suffocating oxygen-respiring organisms like fish, and can produce “cyanotoxins” that pose a significant potential threat to human and ecological health and affect taste, odor and safety of drinking water. They can degrade water ways used for recreation and as drinking water supplies.<sup>68</sup>

When these conditions combine, harmful algal blooms can result. These conditions are ripest in August and September in the Estuary, but drought can increase harmful algal bloom activity. The most common blue-green algae species in the Bay-Delta Estuary is called *Microcystis*. In 2014, *Microcystis* algal blooms lasted beyond October into December due to low flows and warm temperatures—water residence time was that long.<sup>69</sup> Its toxin is deadly to wildlife, dogs, and human beings, and exposure can cause liver cancer in humans. It is a dangerous ecological and public health threat.

The Tunnels are likely to increase residence times and slow flows in the western and central Delta. The recirculated Draft EIR/S this year acknowledges that “it is possible that increases in the frequency, magnitude, and geographic extent of of *Microcystis* blooms in the Delta would occur relative to Existing Conditions”<sup>70</sup> as well as compared with the “no action alternative” (or the future condition of the Delta without “California WaterFix” Tunnels).

### Pesticides

The San Joaquin River is an impaired water body for chlorpyrifos, diazinon, diuron, DDT, and Group A pesticides (human carcinogens) under the Clean Water Act.<sup>71</sup> Increasing that river’s fraction of water contributed to the Delta will result in more concentrated pesticides reaching central and western Delta water ways from the San Joaquin, and with longer residence times, its pesticide burdens stay longer. The Bay-Delta Estuary will be left with a worsening pesticide “cocktail” supplied by the San Joaquin River’s agricultural effluent.

### Mercury

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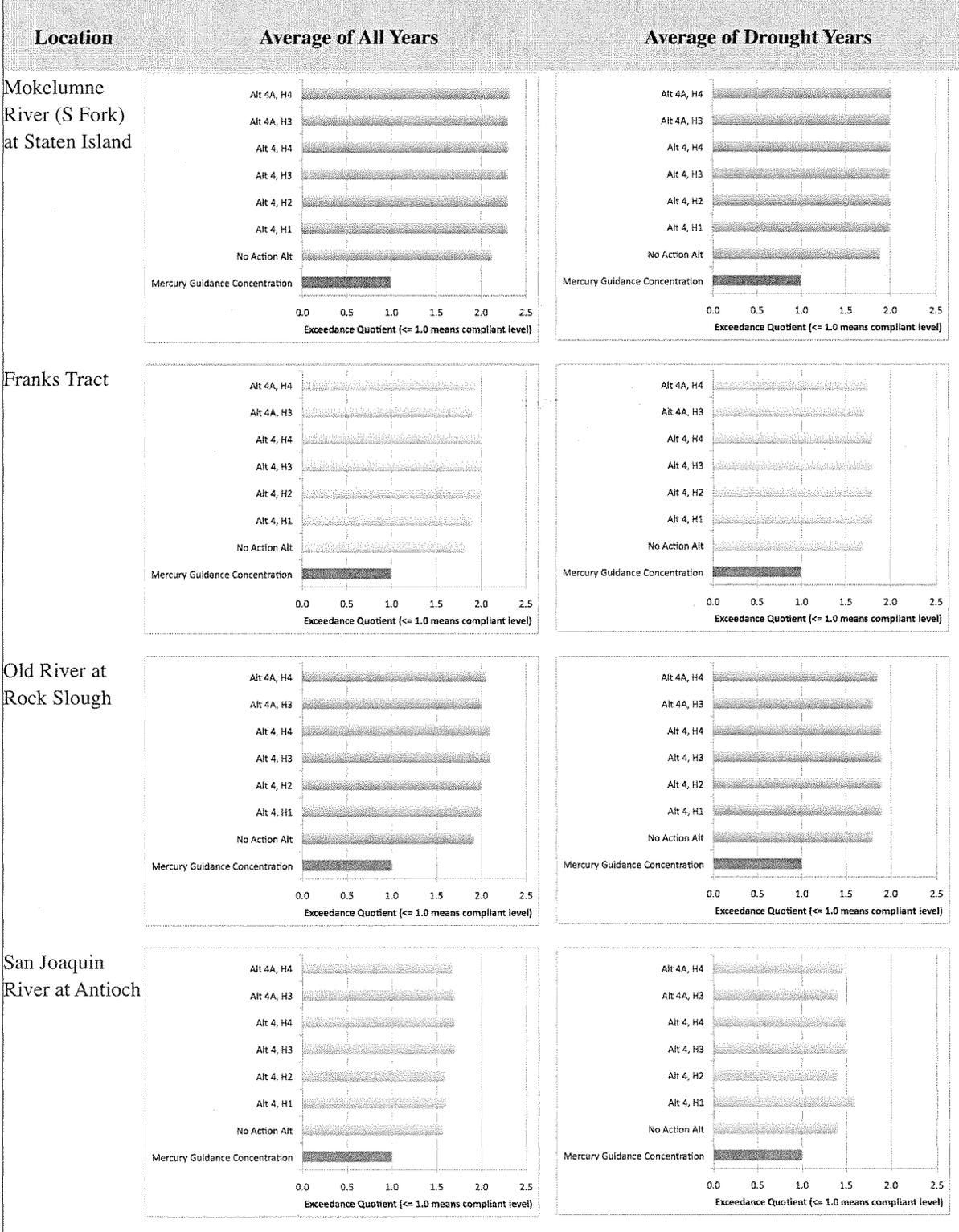
<sup>68</sup> USEPA Region 9, *Frequently Asked Question and Resources for Harmful Algal Blooms and Cyanobacterial Toxins*, Version 1, July 2015. Accessible at [http://www2.epa.gov/sites/production/files/2015-07/documents/habs\\_faqs-and-resources\\_v1-july2015.pdf](http://www2.epa.gov/sites/production/files/2015-07/documents/habs_faqs-and-resources_v1-july2015.pdf).

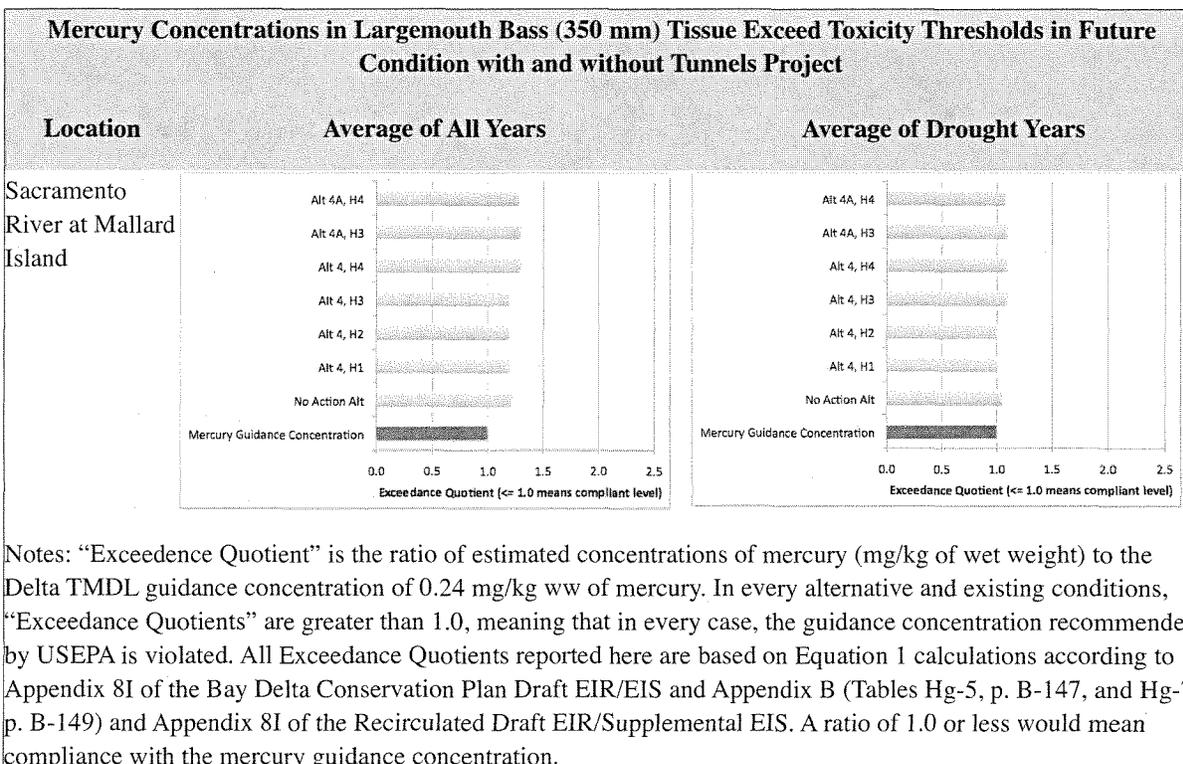
<sup>69</sup> Peggy Lehman, Staff Environmental Scientist, California Department of Water Resources, presentation to IEP 2015 Workshop, Folsom, California, “Response of Microcystis to Drought,” , March 20, 2015.

<sup>70</sup> RDEIR/SDEIS, Section 4.3, p. 4.3.4-67.

<sup>71</sup> US EPA, 2010 California California 303(d) List of Water Quality Limited Segments. Accessible online at [http://gispublic.waterboards.ca.gov/pub/303d/2010\\_USEPA\\_approv\\_303d\\_List\\_Final\\_122311wsrscs.xls](http://gispublic.waterboards.ca.gov/pub/303d/2010_USEPA_approv_303d_List_Final_122311wsrscs.xls).

**Mercury Concentrations in Largemouth Bass (350 mm) Tissue Exceed Toxicity Thresholds in Future Condition with and without Tunnels Project**





As shown in the table of charts above, the ratio of mercury concentrations in largemouth bass tissue was for Alternative 4 Tunnels scenarios well over 1.5 to *twice or more* the toxicity threshold.<sup>72</sup> (DWR and its partners try to divert attention from the toxicity threshold by comparing these levels to continuation of the status quo No Action Alternative<sup>73</sup>, but the important comparison is to the toxicity threshold for ecological and public health protection.)

Alternative 4A modeling in 2015 shows that the Tunnels project despite having less habitat restoration and no Yolo Bypass improvements would have only slightly less effect on fish tissue concentrations of mercury. Moreover, fish tissue concentrations at several Estuary locations would still be more than 1.5 to 2 times the USEPA's mercury guidance concentration. This analysis, however does not reflect "California EcoRestore's" habitat restoration efforts, which cumulatively can be expected to have impacts similar to the Tunnels and the Bay Conservation Plan last year.<sup>74</sup>

The Bay Delta Conservation Plan states that "at this time... there is no proven method to mitigate methylation and mobilization of mercury into the aquatic system resulting from

<sup>72</sup> Environmental Water Caucus, *Comment Letter on Bay Delta Conservation Plan and Draft Environmental Impact Report/Statement*, June 11, 2014, Figure 9, pp. 85-86. Accessible online at <http://ewccalifornia.org/reports/bdpccomments6-11-2014-3.pdf>.

<sup>73</sup> Bay Delta Conservation Plan/California WaterFix, Recirculated Draft EIR/Supplemental EIS, 2015, Section 4.3.4, p. 4.3.4-33, lines 15-45.

<sup>74</sup> Based on Equation 1 calculations according to Appendix 8I of the Bay Delta Conservation Plan Draft EIR/EIS in 2013-2014 and Appendix B (Tables Hg-5 and Hg-7) and Appendix 8I of the Recirculated Draft EIR/Supplemental EIS in 2015. See also Environmental Water Caucus, *Comment Letter*, June 11, 2014, above.

inundation of restoration areas. *The mitigation measures...are meant to provide a list of current research that has indicated potential to mitigate mercury methylation.*<sup>75</sup>

The Water Tunnels project provides no mitigation method at all, just a list of “adaptive management” research issues to be handled later.<sup>76</sup> *Calling the Tunnels project “California WaterFix” plus DWR’s premature application to the Corps of Engineers are not real adaptive management, but political prejudging of scientific outcomes.*

For both tunnels construction and habitat restoration work in and around the Bay-Delta Estuary, DWR and its partners would have to handle MeHg on a case by case basis.<sup>77</sup>

### Selenium

Selenium concentrations in water are expected to change only slightly under the Tunnels Project’s flow regimes, annual average selenium concentrations in whole-body sturgeon are expected to increase substantially, according to Tunnels Project modeling results in the RDEIR/SDEIS. These results are summarized in the table below. In addition, the RDEIR/SDEIS reports that protective toxicity thresholds recommended by Presser and Luoma will be exceeded under Tunnels Project flow regimes relative to No Action Alternative conditions. In particular, their “low” threshold of 5 mg/kg, dry weight would see an exceedance quotient of 1.1 for both operational scenarios of the Tunnel Project, relative to the No Action Alternative condition of 0.95 for the San Joaquin River at Antioch. Under the higher protective threshold they recommend, the exceedance quotient would not rise above 1.0, but would nonetheless increase from 0.59 to about 0.7. For Sacramento River at Mallard Island, average annual exceedance quotients under Tunnels Project flow conditions would increase over the No Action Alternative from 0.88 to 0.99, very close to exceedance. Modeling results do not report the error rate for the

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<sup>75</sup> Charles N. Alpers, et al, *Sacramento-San Joaquin Delta Regional Ecosystem Restoration Implementation Plan, Ecosystem Conceptual Model: Mercury*, prepared January 24, 2008, pp. 12-13. Accessible online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=6413>. “The net formation of ...(MeHg) in sediment and/or water is the result of competing microbiological and abiotic reactions...”

<sup>76</sup> These research approaches include: Characterize soil mercury concentrations and loads on a project-by-project basis; sequester MeHg using low-intensity chemical dosing techniques using metal-based coagulants like ferric sulfide or poly-aluminum chloride. These flocculants bind with dissolved organic carbon and MeHg to flocculate and deposit mercury out of solution; minimize microbial methylation activity in restored wetlands; design restored wetland habitat to enhance photodegradation of MeHg; remediate sulfur-rich sediments with iron to prevent the biogeochemical reactions that methylate mercury; cap mercury-laden sediments (essentially entomb and bury them permanently to keep from mobilizing and methylating mercury). The research “measures” that BDCP proposes do not include basic toxicological research into mercury’s effects on these and other fish and aquatic species found in the Delta.

<sup>77</sup> Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement, Chapter 8, *Water Quality*, p. 8-260, lines 30-35; p. 8-446, lines 39-42, and p. 8-447, lines 1-2. “Because of the uncertainties associated with site-specific estimates of methylmercury concentrations and the uncertainties in source modeling and tissue modeling, the effectiveness of methylmercury management...would need to be evaluated separately for each restoration effort, as part of design and implementation. Because of this uncertainty and the known potential for methylmercury creation in the Delta this potential effect...is considered adverse.”

modeling here performed, so these results could represent exceedance, since they are so close to 1.0.<sup>78</sup>

Retirement of the drainage impaired lands of the western San Joaquin Valley has been found time and again to be the most cost-effective solution to the problem of selenium-tainted irrigation drainage.<sup>79</sup> Land retirement is the best and cheapest option for slowing the rate at which selenium loads and concentrations reach the Delta, and for sequestering selenium in its source rock and soils longer into the future. The natural reservoir of selenium has been documented to hold up to at least another 300 years' worth of tainted drainage at current rates.<sup>80</sup> The National Research Council's 2012 report on Bay-Delta sustainable water management cited this selenium reservoir as well, stating in part:

*Irrigation drainage, contaminated by selenium from those soils, is also accumulating in western San Joaquin Valley groundwaters. The problem is exacerbated by the recycling of the San Joaquin River when water is exported from the delta. While control of selenium releases has improved, how long those controls will be effective is not clear because of the selenium reservoir in groundwater.*

*...Other aspects of water management also could affect selenium contamination. For example, infrastructure changes in the delta such as construction of an isolated facility could result in the export of more Sacramento River water to the south, which would allow more selenium-rich San Joaquin River water to enter the bay. The solutions to selenium contamination must be found within the Central Valley and the risks from selenium to the bay are an important consideration in any infrastructure changes that affect how San Joaquin River water gets to the bay.<sup>81</sup>*

Of course, ending application of Delta waters to irrigate western San Joaquin Valley drainage impaired lands could reduce the need for deliveries to the San Luis Unit of the Central Valley Project by up to a million acre-feet per year. ***This reduction could provide by itself dramatically improved reliability for all other CVP contractors' allocations, without the investment of billions for the Tunnels project and "California WaterFix."***

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<sup>78</sup> RDEIR/SDEIS, Appendix B, Table Se-7, p. B-186.

<sup>79</sup> Presser, T.S. and S.E. Schwarzbach. 2008. *Technical Analysis of In-Valley Drainage Management Strategies for the Western San Joaquin Valley*, US Geological Survey Open File Report 2008-1210. Accessible online at <http://pubs.usgs.gov/of/2008/1210/>.

<sup>80</sup> T.S. Presser and S.N. Luoma, 2006. *Forecasting Selenium Discharges to the San Francisco Bay-Delta Estuary: Ecological Effects of a Proposed San Luis Drain Extension*, United States Geological Survey Professional Paper 1646, cited in: T. Strohane, *Testimony on Recent Salinity and Selenium Science and Modeling for the Bay-Delta Estuary*, plus appendices, prepared for the California Water Impact Network, August 17, 2012, for Workshop #1, Ecosystem Changes and the Low Salinity Zone, before the State Water Resources Control Board.

<sup>81</sup> National Research Council, Committee on Sustainable Water and Environmental management in the California Bay-Delta, *Sustainable Water and Environmental Management in the California Bay-Delta*, Washington, DC: The National Academies Press, 2012, p. 94. Accessible online 8 May 2014, at [http://www.nap.edu/catalog.php?record\\_id=13394](http://www.nap.edu/catalog.php?record_id=13394).

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**From:** Tim Stroshane <spillwayguy@gmail.com>  
**Sent:** Tuesday, October 06, 2015 1:14 PM  
**To:** Sally Jewell; Penny Pritzker; Gina McCarthy; John Laird; Mark W. Cowin; David Murrillo; BDCPcomments  
**Cc:** Tom Howard; Diane Riddle; Maria Rea; Michael Tucker; Larry Rabin; Lori Rinek; Mary Lee Knecht; Patty Idloff; Deanna Harwood; Kaylee Allen; Jared Blumenfeld; Tom Hagler; Tim Vendlinski; Stephanie Skophammer; Erin Foresman; Lisa Clay; Michael Nepstad; Zachary M. Simmons; Barbara Barrigan-Parrilla; Bob Wright; Linda Sheehan; Bill Jennings; Carolee Krieger; Jeff Miller; April Sommer; Conner Everts  
**Subject:** Tunnels Project Failure to Protect Water Quality  
**Attachments:** 20151006 Tunnels CWA Letter FINAL.pdf; ATT00001.txt

Dear Secretary Jewell, Secretary Pritzker, Administrator McCarthy, Secretary Laird, Director Cowin, Regional Director Murrillo, and officers of various Federal and California agencies with responsibilities concerning the BDCP/"California WaterFix":

On behalf of the signatories of the attached letter, eight environmental organizations in California object to the adverse water quality effects which would occur under the Bay Delta Conservation Plan/California WaterFix/Water Tunnels project.

We believe the BDCP Delta Water Tunnels project is not permissible under the federal Clean Water Act because it would degrade water quality in the San Francisco Bay-Delta Estuary. This in turn will adversely affect numerous recognized beneficial uses and public health. The Water Tunnels project will require a Clean Water Act Section 401 certification that it cannot be given because it will not comply with established water quality standards.

Should you have questions concerning this letter please contact Tim Stroshane or Barbara Barrigan-Parrilla at Restore the Delta; Linda Sheehan of Earth Law Center, and Robert Wright at Friends of the River. Our contact information is in the attached letter.